



# Criminal Justice Act 2003

## 2003 CHAPTER 44

An Act to make provision about criminal justice (including the powers and duties of the police) and about dealing with offenders; to amend the law relating to jury service; to amend Chapter 1 of Part 1 of the Crime and Disorder Act 1998 and Part 5 of the Police Act 1997; to make provision about civil proceedings brought by offenders; and for connected purposes. [20th November 2003]

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:—

### Modifications etc. (not altering text)

C1 Act: power to amend conferred (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 7, 22\(1\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(g\)](#)

## PART 1

### AMENDMENTS OF POLICE AND CRIMINAL EVIDENCE ACT 1984

#### 1 Extension of powers to stop and search

- (1) In this Part, “the 1984 Act” means the Police and Criminal Evidence Act 1984 (c. 60).
- (2) In section 1(8) of the 1984 Act (offences for purpose of definition of prohibited article), at the end of paragraph (d) there is inserted “; and
  - (e) offences under section 1 of the Criminal Damage Act 1971 (destroying or damaging property).”

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**2 Warrants to enter and search**

In section 16 of the 1984 Act (execution of warrants), after subsection (2) there is inserted—

“(2A) A person so authorised has the same powers as the constable whom he accompanies in respect of—

- (a) the execution of the warrant, and
- (b) the seizure of anything to which the warrant relates.

(2B) But he may exercise those powers only in the company, and under the supervision, of a constable.”

**3 Arrestable offences**

F1 .....

**Textual Amendments**  
F1 S. 3 repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 174(2), 178, [Sch. 17 Pt. 2](#); [S.I. 2005/3495](#), [art. 2\(1\)\(t\)\(u\)\(lvii\)](#) (subject to [art. 2\(2\)](#))

**4 Bail elsewhere than at police station**

(1) Section 30 of the 1984 Act (arrest elsewhere than at police station) is amended as follows.

(2) For subsection (1) there is substituted—

“(1) Subsection (1A) applies where a person is, at any place other than a police station—

- (a) arrested by a constable for an offence, or
- (b) taken into custody by a constable after being arrested for an offence by a person other than a constable.

(1A) The person must be taken by a constable to a police station as soon as practicable after the arrest.

(1B) Subsection (1A) has effect subject to section 30A (release on bail) and subsection (7) (release without bail).”

(3) In subsection (2) for “subsection (1)” there is substituted “ subsection (1A) ”.

(4) For subsection (7) there is substituted—

“(7) A person arrested by a constable at any place other than a police station must be released without bail if the condition in subsection (7A) is satisfied.

(7A) The condition is that, at any time before the person arrested reaches a police station, a constable is satisfied that there are no grounds for keeping him under arrest or releasing him on bail under section 30A.”

(5) For subsections (10) and (11) there is substituted—

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- “(10) Nothing in subsection (1A) or in section 30A prevents a constable delaying taking a person to a police station or releasing him on bail if the condition in subsection (10A) is satisfied.
- (10A) The condition is that the presence of the person at a place (other than a police station) is necessary in order to carry out such investigations as it is reasonable to carry out immediately.
- (11) Where there is any such delay the reasons for the delay must be recorded when the person first arrives at the police station or (as the case may be) is released on bail.”
- (6) In subsection (12) for “subsection (1)” there is substituted “ subsection (1A) or section 30A ”.
- (7) After section 30 there is inserted—

**“30A Bail elsewhere than at police station**

- (1) A constable may release on bail a person who is arrested or taken into custody in the circumstances mentioned in section 30(1).
- (2) A person may be released on bail under subsection (1) at any time before he arrives at a police station.
- (3) A person released on bail under subsection (1) must be required to attend a police station.
- (4) No other requirement may be imposed on the person as a condition of bail.
- (5) The police station which the person is required to attend may be any police station.

**30B Bail under section 30A: notices**

- (1) Where a constable grants bail to a person under section 30A, he must give that person a notice in writing before he is released.
- (2) The notice must state—
  - (a) the offence for which he was arrested, and
  - (b) the ground on which he was arrested.
- (3) The notice must inform him that he is required to attend a police station.
- (4) It may also specify the police station which he is required to attend and the time when he is required to attend.
- (5) If the notice does not include the information mentioned in subsection (4), the person must subsequently be given a further notice in writing which contains that information.
- (6) The person may be required to attend a different police station from that specified in the notice under subsection (1) or (5) or to attend at a different time.

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- (7) He must be given notice in writing of any such change as is mentioned in subsection (6) but more than one such notice may be given to him.

### **30C Bail under section 30A: supplemental**

- (1) A person who has been required to attend a police station is not required to do so if he is given notice in writing that his attendance is no longer required.
- (2) If a person is required to attend a police station which is not a designated police station he must be—
- (a) released, or
  - (b) taken to a designated police station, not more than six hours after his arrival.
- (3) Nothing in the Bail Act 1976 applies in relation to bail under section 30A.
- (4) Nothing in section 30A or 30B or in this section prevents the re-arrest without a warrant of a person released on bail under section 30A if new evidence justifying a further arrest has come to light since his release.

### **30D Failure to answer to bail under section 30A**

- (1) A constable may arrest without a warrant a person who—
- (a) has been released on bail under section 30A subject to a requirement to attend a specified police station, but
  - (b) fails to attend the police station at the specified time.
- (2) A person arrested under subsection (1) must be taken to a police station (which may be the specified police station or any other police station) as soon as practicable after the arrest.
- (3) In subsection (1), “specified” means specified in a notice under subsection (1) or (5) of section 30B or, if notice of change has been given under subsection (7) of that section, in that notice.
- (4) For the purposes of—
- (a) section 30 (subject to the obligation in subsection (2)), and
  - (b) section 31,
- an arrest under this section is to be treated as an arrest for an offence.”

## **5 Drug testing for under-eighteens**

- (1) The 1984 Act is amended as follows.
- (2) In section 38 (duties of custody officer after charge)—
- (a) in subsection (1)—
    - (i) for sub-paragraph (iiia) of paragraph (a) there is substituted—
 

“(iiia) except in a case where (by virtue of subsection (9) of section 63B below) that section does not apply, the custody officer has reasonable grounds for believing that the detention of the person is necessary to enable



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- a sample to be taken from him under that section;”,
- (ii) in sub-paragraph (i) of paragraph (b), after “satisfied” there is inserted “ (but, in the case of paragraph (a)(iiia) above, only if the arrested juvenile has attained the minimum age) ”,
- (b) in subsection (6A), after the definition of “local authority accommodation” there is inserted—
- ““minimum age” means the age specified in section 63B(3) below;”.
- (3) In section 63B (testing for presence of Class A drugs)—
- (a) <sup>F2</sup>.....
- (b) after subsection (5) there is inserted—
- “(5A) In the case of a person who has not attained the age of 17—
- (a) the making of the request under subsection (4) above;
- (b) the giving of the warning and (where applicable) the information under subsection (5) above; and
- (c) the taking of the sample,
- may not take place except in the presence of an appropriate adult.”,
- (c) after subsection (6) there is inserted—
- “(6A) The Secretary of State may by order made by statutory instrument amend subsection (3) above by substituting for the age for the time being specified a different age specified in the order.
- (6B) A statutory instrument containing an order under subsection (6A) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”,
- (d) after subsection (8) there is inserted—
- “(9) In relation to a person who has not attained the age of 18, this section applies only where—
- (a) the relevant chief officer has been notified by the Secretary of State that arrangements for the taking of samples under this section from persons who have not attained the age of 18 have been made for the police area as a whole, or for the particular police station, in which the person is in police detention; and
- (b) the notice has not been withdrawn.
- (10) In this section—
- “appropriate adult”, in relation to a person who has not attained the age of 17, means—
- (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation; or
- (b) a social worker of a local authority social services department; or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police;

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“relevant chief officer” means—

- (a) in relation to a police area, the chief officer of police of the police force for that police area; or
- (b) in relation to a police station, the chief officer of police of the police force for the police area in which the police station is situated.”

#### Textual Amendments

**F2** S. 5(3)(a) repealed (1.12.2005) by [Drugs Act 2005 \(c. 17\)](#), ss. 23, 24, Sch. 1 para. 8, [Sch. 2](#); [S.I. 2005/3053](#), [art. 2\(1\)\(f\)](#)

#### Commencement Information

**II** S. 5 wholly in force at 1.12.2005; s. 5 not in force at Royal Assent, see s. 336(3); s. 5 in force for certain purposes at 1.8.2004 by [S.I. 2004/1867](#), [art. 2](#); s. 5 in force in so far as not already in force at 1.12.2005 by [S.I. 2005/3055](#), [art. 2](#)

## 6 Use of telephones for review of police detention

For section 40A(1) and (2) of the 1984 Act (use of telephone for review under s.40) there is substituted—

- “(1) A review under section 40(1)(b) may be carried out by means of a discussion, conducted by telephone, with one or more persons at the police station where the arrested person is held.
- (2) But subsection (1) does not apply if—
- (a) the review is of a kind authorised by regulations under section 45A to be carried out using video-conferencing facilities; and
  - (b) it is reasonably practicable to carry it out in accordance with those regulations.”

## 7 Limits on period of detention without charge

In section 42(1) of the 1984 Act (conditions to be satisfied before detention without charge may be extended from 24 to 36 hours), for paragraph (b) there is substituted—

“(b) an offence for which he is under arrest is an arrestable offence; and”.

## 8 Property of detained persons

(1) In subsection (1) of section 54 of the 1984 Act (which requires the custody officer at a police station to ascertain and record everything which a detained person has with him), there is omitted “and record or cause to be recorded”.

(2) For subsection (2) of that section (record of arrested person to be made as part of custody record) there is substituted—

“(2) The custody officer may record or cause to be recorded all or any of the things which he ascertains under subsection (1).

(2A) In the case of an arrested person, any such record may be made as part of his custody record.”

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## 9 Taking fingerprints without consent

- (1) Section 61 of the 1984 Act (fingerprinting) is amended as follows.
- (2) For subsections (3) and (4) (taking of fingerprints without appropriate consent) there is substituted—
  - “(3) The fingerprints of a person detained at a police station may be taken without the appropriate consent if—
    - (a) he is detained in consequence of his arrest for a recordable offence; and
    - (b) he has not had his fingerprints taken in the course of the investigation of the offence by the police.
  - (4) The fingerprints of a person detained at a police station may be taken without the appropriate consent if—
    - (a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
    - (b) he has not had his fingerprints taken in the course of the investigation of the offence by the police.”
- (3) In subsection (3A) (disregard of incomplete or unsatisfactory fingerprints) for the words from the beginning to “subsection (3) above” there is substituted “ Where a person mentioned in paragraph (a) of subsection (3) or (4) has already had his fingerprints taken in the course of the investigation of the offence by the police ”.
- (4) In subsection (5) (authorisation to be given or confirmed in writing) for “subsection (3) (a) or (4A)” there is substituted “ subsection (4A) ”.
- (5) In subsection (7) (reasons for taking of fingerprints without consent) for “subsection (3) or (6)” there is substituted “ subsection (3), (4) or (6) ”.

### Commencement Information

**I2** S. 9 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

## 10 Taking non-intimate samples without consent

- (1) Section 63 of the 1984 Act (other samples) is amended as follows.
- (2) After subsection (2) (consent to be given in writing) there is inserted—
  - “(2A) A non-intimate sample may be taken from a person without the appropriate consent if two conditions are satisfied.
  - (2B) The first is that the person is in police detention in consequence of his arrest for a recordable offence.
  - (2C) The second is that—
    - (a) he has not had a non-intimate sample of the same type and from the same part of the body taken in the course of the investigation of the offence by the police, or
    - (b) he has had such a sample taken but it proved insufficient.”

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- (3) In subsection (3)(a) (taking of samples without appropriate consent) the words “is in police detention or” are omitted.
- (4) In subsection (3A) (taking of samples without appropriate consent after charge) for “(whether or not he falls within subsection (3)(a) above)” there is substituted “ (whether or not he is in police detention or held in custody by the police on the authority of a court) ”.
- (5) In subsection (8A) (reasons for taking of samples without consent) for “subsection (3A)” there is substituted “ subsection (2A), (3A) ”.

#### **Commencement Information**

**I3** S. 10 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

## **11 Codes of practice**

- (1) In section 67 of the 1984 Act (supplementary provisions about codes), for subsections (1) to (7C) there is substituted—
  - “(1) In this section, “code” means a code of practice under section 60, 60A or 66.
  - (2) The Secretary of State may at any time revise the whole or any part of a code.
  - (3) A code may be made, or revised, so as to—
    - (a) apply only in relation to one or more specified areas,
    - (b) have effect only for a specified period,
    - (c) apply only in relation to specified offences or descriptions of offender.
  - (4) Before issuing a code, or any revision of a code, the Secretary of State must consult—
    - (a) persons whom he considers to represent the interests of police authorities,
    - (b) persons whom he considers to represent the interests of chief officers of police,
    - (c) the General Council of the Bar,
    - (d) the Law Society of England and Wales,
    - (e) the Institute of Legal Executives, and
    - (f) such other persons as he thinks fit.
  - (5) A code, or a revision of a code, does not come into operation until the Secretary of State by order so provides.
  - (6) The power conferred by subsection (5) is exercisable by statutory instrument.
  - (7) An order bringing a code into operation may not be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
  - (7A) An order bringing a revision of a code into operation must be laid before Parliament if the order has been made without a draft having been so laid and approved by a resolution of each House.

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- (7B) When an order or draft of an order is laid, the code or revision of a code to which it relates must also be laid.
- (7C) No order or draft of an order may be laid until the consultation required by subsection (4) has taken place.
- (7D) An order bringing a code, or a revision of a code, into operation may include transitional or saving provisions.”
- (2) Section 113 of the 1984 Act (application of Act to armed forces) is amended as follows.
- (3) After subsection (3) there is inserted—
- “(3A) In subsections (4) to (10), “code” means a code of practice under subsection (3).”
- (4) For subsections (5) to (7) there is substituted—
- “(5) The Secretary of State may at any time revise the whole or any part of a code.
- (6) A code may be made, or revised, so as to—
- (a) apply only in relation to one or more specified areas,
- (b) have effect only for a specified period,
- (c) apply only in relation to specified offences or descriptions of offender.
- (7) The Secretary of State must lay a code, or any revision of a code, before Parliament.”

## 12 Amendments related to Part 1

Schedule 1 (which makes amendments related to the provisions of this Part) has effect.

## PART 2

### BAIL

## 13 Grant and conditions of bail

- (1) In section 3(6) of the 1976 Act (which sets out cases where bail conditions may be imposed)—
- (a) the words “to secure that” are omitted,
- (b) the words “to secure that” are inserted at the beginning of each of paragraphs (a) to (e),
- (c) after paragraph (c) there is inserted—
- “(ca) for his own protection or, if he is a child or young person, for his own welfare or in his own interests,”
- (d) for “or (c)” there is substituted “, (c) or (ca)”.
- (2) In section 3A(5) of the 1976 Act (no conditions may be imposed under section 3(4), (5), (6) or (7) unless necessary for certain purposes)—
- (a) the words “for the purpose of preventing that person from” are omitted,

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- (b) the words “for the purpose of preventing that person from” are inserted at the beginning of each of paragraphs (a) to (c),
  - (c) after paragraph (c) there is inserted “or
    - (d) for that person’s own protection or, if he is a child or young person, for his own welfare or in his own interests.”
- (3) In paragraph 8(1) of Part 1 of Schedule 1 to the 1976 Act (no conditions may be imposed under section 3(4) to (7) unless necessary to do so for certain purposes) for the words from “that it is necessary to do so” onwards there is substituted “that it is necessary to do so—
- (a) for the purpose of preventing the occurrence of any of the events mentioned in paragraph 2(1) of this Part of this Schedule, or
  - (b) for the defendant’s own protection or, if he is a child or young person, for his own welfare or in his own interests.”
- (4) For paragraph 5 of Part 2 of that Schedule (defendant need not be granted bail if having been released on bail he has been arrested in pursuance of section 7) there is substituted—

The defendant need not be granted bail if—

- (a) having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act; and
- (b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody, commit an offence on bail or interfere with witnesses or otherwise obstruct the course of justice (whether in relation to himself or any other person).”

#### Commencement Information

**I4** S. 13 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

## 14 Offences committed on bail

- (1) For paragraph 2A of Part 1 of Schedule 1 to the 1976 Act (defendant need not be granted bail where he was on bail on date of offence) there is substituted—

“2A (1) If the defendant falls within this paragraph he may not be granted bail unless the court is satisfied that there is no significant risk of his committing an offence while on bail (whether subject to conditions or not).

(2) The defendant falls within this paragraph if—

- (a) he is aged 18 or over, and
- (b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.”

- (2) After paragraph 9 of that Part there is inserted—

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- “9AA
- (1) This paragraph applies if—
    - (a) the defendant is under the age of 18, and
    - (b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.
  - (2) In deciding for the purposes of paragraph 2(1) of this Part of this Schedule whether it is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would commit an offence while on bail, the court shall give particular weight to the fact that the defendant was on bail in criminal proceedings on the date of the offence.”

**Commencement Information**

- I5** S. 14 partly in force; s. 14 not in force at Royal Assent, see s. 336(3); s. 14 in force for certain purposes at 1.1.2007 by [S.I. 2006/3217](#), [art. 2](#) (subject to [art. 3](#))

**15 Absconding by persons released on bail**

- (1) For paragraph 6 of Part 1 of Schedule 1 to the 1976 Act (defendant need not be granted bail if having been released on bail he has been arrested in pursuance of section 7) there is substituted—

- (1) If the defendant falls within this paragraph, he may not be granted bail unless the court is satisfied that there is no significant risk that, if released on bail (whether subject to conditions or not), he would fail to surrender to custody.
- (2) Subject to sub-paragraph (3) below, the defendant falls within this paragraph if—
  - (a) he is aged 18 or over, and
  - (b) it appears to the court that, having been released on bail in or in connection with the proceedings for the offence, he failed to surrender to custody.
- (3) Where it appears to the court that the defendant had reasonable cause for his failure to surrender to custody, he does not fall within this paragraph unless it also appears to the court that he failed to surrender to custody at the appointed place as soon as reasonably practicable after the appointed time.
- (4) For the purposes of sub-paragraph (3) above, a failure to give to the defendant a copy of the record of the decision to grant him bail shall not constitute a reasonable cause for his failure to surrender to custody.”

- (2) After paragraph 9AA of that Part (inserted by section 14(2)) there is inserted—

- “9AB
- (1) Subject to sub-paragraph (2) below, this paragraph applies if—
    - (a) the defendant is under the age of 18, and

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- (b) it appears to the court that, having been released on bail in or in connection with the proceedings for the offence, he failed to surrender to custody.
- (2) Where it appears to the court that the defendant had reasonable cause for his failure to surrender to custody, this paragraph does not apply unless it also appears to the court that he failed to surrender to custody at the appointed place as soon as reasonably practicable after the appointed time.
- (3) In deciding for the purposes of paragraph 2(1) of this Part of this Schedule whether it is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would fail to surrender to custody, the court shall give particular weight to—
  - (a) where the defendant did not have reasonable cause for his failure to surrender to custody, the fact that he failed to surrender to custody, or
  - (b) where he did have reasonable cause for his failure to surrender to custody, the fact that he failed to surrender to custody at the appointed place as soon as reasonably practicable after the appointed time.
- (4) For the purposes of this paragraph, a failure to give to the defendant a copy of the record of the decision to grant him bail shall not constitute a reasonable cause for his failure to surrender to custody.”
- (3) In section 6 of the 1976 Act (offence of absconding by person released on bail) after subsection (9) there is inserted—
  - “(10) Section 127 of the Magistrates' Courts Act 1980 shall not apply in relation to an offence under subsection (1) or (2) above.
  - (11) Where a person has been released on bail in criminal proceedings and that bail was granted by a constable, a magistrates' court shall not try that person for an offence under subsection (1) or (2) above in relation to that bail (the “relevant offence”) unless either or both of subsections (12) and (13) below applies.
  - (12) This subsection applies if an information is laid for the relevant offence within 6 months from the time of the commission of the relevant offence.
  - (13) This subsection applies if an information is laid for the relevant offence no later than 3 months from the time of the occurrence of the first of the events mentioned in subsection (14) below to occur after the commission of the relevant offence.
  - (14) Those events are—
    - (a) the person surrenders to custody at the appointed place;
    - (b) the person is arrested, or attends at a police station, in connection with the relevant offence or the offence for which he was granted bail;
    - (c) the person appears or is brought before a court in connection with the relevant offence or the offence for which he was granted bail.”

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#### **Commencement Information**

- 16** S. 15 partly in force; s. 15 not in force at Royal Assent, see s. 336(3); s. 15(3) in force at 5.4.2004 by S.I. 2004/829, **art. 2(1)(2)** (subject to **art. 2(3)-(6)**); s. 15(1)(2) in force for certain purposes at 1.1.2007 by S.I. 2006/3217, **art. 2** (subject to **art. 3**)



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## 16 Appeal to Crown Court

- (1) This section applies where a magistrates' court grants bail to a person ("the person concerned") on adjourning a case under—
  - (a) section 10 of the Magistrates' Courts Act 1980 (c. 43) (adjournment of trial),
  - (b) section 17C of that Act (intention as to plea: adjournment),
  - (c) section 18 of that Act (initial procedure on information against adult for offence triable either way),
  - (d) section 24C of that Act (intention as to plea by child or young person: adjournment),
  - (e) section 52(5) of the Crime and Disorder Act 1998 (c. 37) (adjournment of proceedings under section 51 etc), or
  - (f) section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (remand for medical examination).
- (2) Subject to the following provisions of this section, the person concerned may appeal to the Crown Court against any condition of bail falling within subsection (3).
- (3) A condition of bail falls within this subsection if it is a requirement—
  - (a) that the person concerned resides away from a particular place or area,
  - (b) that the person concerned resides at a particular place other than a bail hostel,
  - (c) for the provision of a surety or sureties or the giving of a security,
  - (d) that the person concerned remains indoors between certain hours,
  - (e) imposed under section 3(6ZAA) of the 1976 Act (requirements with respect to electronic monitoring), or
  - (f) that the person concerned makes no contact with another person.
- (4) An appeal under this section may not be brought unless subsection (5) or (6) applies.
- (5) This subsection applies if an application to the magistrates' court under section 3(8)(a) of the 1976 Act (application by or on behalf of person granted bail) was made and determined before the appeal was brought.
- (6) This subsection applies if an application to the magistrates' court—
  - (a) under section 3(8)(b) of the 1976 Act (application by constable or prosecutor), or
  - (b) under section 5B(1) of that Act (application by prosecutor),was made and determined before the appeal was brought.
- (7) On an appeal under this section the Crown Court may vary the conditions of bail.
- (8) Where the Crown Court determines an appeal under this section, the person concerned may not bring any further appeal under this section in respect of the conditions of bail unless an application or a further application to the magistrates' court under section 3(8)(a) of the 1976 Act is made and determined after the appeal.

### Commencement Information

**I7** S. 16 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

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## 17 Appeals to High Court

- (1) In section 22(1) of the Criminal Justice Act 1967 (c. 80) (extension of power of High Court to grant, or vary conditions of, bail)—
  - (a) after “Where” there is inserted “ (a) ”, and
  - (b) after “proceedings,” in the second place where it occurs, there is inserted “and
    - (b) it does so where an application to the court to state a case for the opinion of the High Court is made.”.
- (2) The inherent power of the High Court to entertain an application in relation to bail where a magistrates' court—
  - (a) has granted or withheld bail, or
  - (b) has varied the conditions of bail,
 is abolished.
- (3) The inherent power of the High Court to entertain an application in relation to bail where the Crown Court has determined—
  - (a) an application under section 3(8) of the 1976 Act, or
  - (b) an application under section 81(1)(a), (b), (c) or (g) of the Supreme Court Act 1981 (c. 54),
 is abolished.
- (4) The High Court is to have no power to entertain an application in relation to bail where the Crown Court has determined an appeal under section 16 of this Act.
- (5) The High Court is to have no power to entertain an application in relation to bail where the Crown Court has granted or withheld bail under section 88 or 89 of this Act.
- (6) Nothing in this section affects—
  - (a) any other power of the High Court to grant or withhold bail or to vary the conditions of bail, or
  - (b) any right of a person to apply for a writ of habeas corpus or any other prerogative remedy.
- (7) Any reference in this section to an application in relation to bail is to be read as including—
  - (a) an application for bail to be granted,
  - (b) an application for bail to be withheld,
  - (c) an application for the conditions of bail to be varied.
- (8) Any reference in this section to the withholding of bail is to be read as including a reference to the revocation of bail.

### Commencement Information

**18** S. 17 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, **art. 2(1)(2)** (subject to **art. 2(3)-(6)**)

## 18 Appeal by prosecution

- (1) Section 1 of the Bail (Amendment) Act 1993 (c. 26) (prosecution right of appeal) is amended as follows.

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(2) For subsection (1) (prosecution may appeal to Crown Court judge against bail in case of offence punishable by imprisonment for five years or more etc) there is substituted—

“(1) Where a magistrates' court grants bail to a person who is charged with, or convicted of, an offence punishable by imprisonment, the prosecution may appeal to a judge of the Crown Court against the granting of bail.”

(3) In subsection (10)(a) for “punishable by a term of imprisonment” there is substituted “punishable by imprisonment”.

#### Commencement Information

**19** S. 18 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 1](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 19 Drug users: restriction on bail

(1) The 1976 Act is amended as follows.

(2) In section 3 (general provisions), after subsection (6B) there is inserted—

“(6C) Subsection (6D) below applies where—

- (a) the court has been notified by the Secretary of State that arrangements for conducting a relevant assessment or, as the case may be, providing relevant follow-up have been made for the petty sessions area in which it appears to the court that the person referred to in subsection (6D) would reside if granted bail; and
- (b) the notice has not been withdrawn.

(6D) In the case of a person (“P”)—

- (a) in relation to whom paragraphs (a) to (c) of paragraph 6B(1) of Part 1 of Schedule 1 to this Act apply;
- (b) who, after analysis of the sample referred to in paragraph (b) of that paragraph, has been offered a relevant assessment or, if a relevant assessment has been carried out, has had relevant follow-up proposed to him; and
- (c) who has agreed to undergo the relevant assessment or, as the case may be, to participate in the relevant follow-up,

the court, if it grants bail, shall impose as a condition of bail that P both undergo the relevant assessment and participate in any relevant follow-up proposed to him or, if a relevant assessment has been carried out, that P participate in the relevant follow-up.

(6E) In subsections (6C) and (6D) above—

- (a) “relevant assessment” means an assessment conducted by a suitably qualified person of whether P is dependent upon or has a propensity to misuse any specified Class A drugs;
- (b) “relevant follow-up” means, in a case where the person who conducted the relevant assessment believes P to have such a dependency or propensity, such further assessment, and such assistance or treatment (or both) in connection with the dependency

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or propensity, as the person who conducted the relevant assessment (or conducts any later assessment) considers to be appropriate in P’s case,

and in paragraph (a) above “Class A drug” and “misuse” have the same meaning as in the Misuse of Drugs Act 1971, and “specified” (in relation to a Class A drug) has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

(6F) In subsection (6E)(a) above, “suitably qualified person” means a person who has such qualifications or experience as are from time to time specified by the Secretary of State for the purposes of this subsection.”

(3) In section 3A(3) (conditions of bail in case of police bail), for “, (6A) and (6B)” there is substituted “ and (6A) to (6F) ”.

(4) In Schedule 1 (which contains supplementary provisions about bail), in Part 1 (imprisonable offences)—

(a) after paragraph 6 there is inserted—

**6A “Exception applicable to drug users in certain areas**

Subject to paragraph 6C below, a defendant who falls within paragraph 6B below may not be granted bail unless the court is satisfied that there is no significant risk of his committing an offence while on bail (whether subject to conditions or not).

**6B Exception applicable to drug users in certain areas**

(1) A defendant falls within this paragraph if—

(a) he is aged 18 or over;

(b) a sample taken—

(i) under section 63B of the Police and Criminal Evidence Act 1984 (testing for presence of Class A drugs) in connection with the offence; or

(ii) under section 161 of the Criminal Justice Act 2003 (drug testing after conviction of an offence but before sentence),

has revealed the presence in his body of a specified Class A drug;

(c) either the offence is one under section 5(2) or (3) of the Misuse of Drugs Act 1971 and relates to a specified Class A drug, or the court is satisfied that there are substantial grounds for believing—

(i) that misuse by him of any specified Class A drug caused or contributed to the offence; or

(ii) (even if it did not) that the offence was motivated wholly or partly by his intended misuse of such a drug; and

(d) the condition set out in sub-paragraph (2) below is satisfied or (if the court is considering on a second or subsequent

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occasion whether or not to grant bail) has been, and continues to be, satisfied.

- (2) The condition referred to is that after the taking and analysis of the sample—
- (a) a relevant assessment has been offered to the defendant but he does not agree to undergo it; or
  - (b) he has undergone a relevant assessment, and relevant follow-up has been proposed to him, but he does not agree to participate in it.
- (3) In this paragraph and paragraph 6C below—
- (a) “Class A drug” and “misuse” have the same meaning as in the Misuse of Drugs Act 1971;
  - (b) “relevant assessment” and “relevant follow-up” have the meaning given by section 3(6E) of this Act;
  - (c) “specified” (in relation to a Class A drug) has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

#### 6C Exception applicable to drug users in certain areas

Paragraph 6A above does not apply unless—

- (a) the court has been notified by the Secretary of State that arrangements for conducting a relevant assessment or, as the case may be, providing relevant follow-up have been made for the petty sessions area in which it appears to the court that the defendant would reside if granted bail; and
  - (b) the notice has not been withdrawn.”
- (b) in paragraph 8(1), for “(4) to (7)” there is substituted “ (4) to (6B) or (7) ”.

#### Commencement Information

**110** S. 19 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

## 20 Supplementary amendments to the Bail Act 1976

- (1) In Part 1 of Schedule 1 to the 1976 Act (supplementary provisions relating to bail of defendant accused or convicted of imprisonable offence) the existing text of paragraph 2 is to be sub-paragraph (1) of that paragraph, and after that sub-paragraph (as so re-numbered) there is inserted—

- “(2) Where the defendant falls within one or more of paragraphs 2A, 6 and 6B of this Part of this Schedule, this paragraph shall not apply unless—
- (a) where the defendant falls within paragraph 2A, the court is satisfied as mentioned in sub-paragraph (1) of that paragraph;
  - (b) where the defendant falls within paragraph 6, the court is satisfied as mentioned in sub-paragraph (1) of that paragraph;
  - (c) where the defendant falls within paragraph 6B, the court is satisfied as mentioned in paragraph 6A of this Part of this Schedule or

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paragraph 6A does not apply by virtue of paragraph 6C of this Part of this Schedule.”

- (2) In paragraph 9 of that Part (matters to be taken into account in making decisions under paragraph 2 or 2A of that Part) for “2 or 2A” there is substituted “2(1), or in deciding whether it is satisfied as mentioned in paragraph 2A(1), 6(1) or 6A, ”.

#### Commencement Information

**I11** S. 20 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), **art. 2(1)(2)** (subject to [art. 2\(3\)-\(6\)](#))

## 21 Interpretation of Part 2

In this Part—

“bail” means bail in criminal proceedings (within the meaning of the 1976 Act),

“bail hostel” has the meaning given by section 2(2) of the 1976 Act,

“the 1976 Act” means the Bail Act 1976 (c. 63),

“vary” has the same meaning as in the 1976 Act.

#### Commencement Information

**I12** S. 21 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), **art. 2(1)(2)** (subject to [art. 2\(3\)-\(6\)](#))

## PART 3

### CONDITIONAL CAUTIONS

#### Modifications etc. (not altering text)

**C2** Pt. 3 excluded (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 17(8)(a)**, 95(1); [S.I. 2015/778](#), **art. 3**, Sch. 1 para. 13

## 22 Conditional cautions

- (1) An authorised person may give a conditional caution to a person aged 18 or over (“the offender”) if each of the five requirements in section 23 is satisfied.
- (2) In this Part “conditional caution” means a caution which is given in respect of an offence committed by the offender and which has conditions attached to it with which the offender must comply.

[<sup>F3</sup>(3) The conditions which may be attached to [<sup>F4</sup>any conditional caution] are those which have one or more of the following objects—

- (a) facilitating the rehabilitation of the offender;
- (b) ensuring that the offender makes reparation for the offence;
- (c) punishing the offender.]

[<sup>F5</sup>(3A) The conditions which may be attached to a conditional caution include—

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- (a) (subject to section 23A) a condition that the offender pay a financial penalty;
- (b) a condition that the offender attend at a specified place at specified times.

“Specified” means specified [<sup>F6</sup>in the condition] .

(3B) Conditions attached by virtue of subsection (3A)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender's rehabilitation.

(3C) The Secretary of State may by order amend subsection (3B) by substituting a different figure.]

[<sup>F7</sup>(3D) A conditional caution given to a relevant foreign offender may have conditions attached to it that have one or more of the objects mentioned in subsection (3E) (whether or not in addition to conditions with one or more of the objects mentioned in subsection (3)).

(3E) The objects are—

- (a) bringing about the departure of the relevant foreign offender from the United Kingdom;
- (b) ensuring that the relevant foreign offender does not return to the United Kingdom for a period of time.

(3F) If a relevant foreign offender is given a conditional caution with a condition attached to it with the object of ensuring that the offender does not return to the United Kingdom for a period of time, the expiry of that period does not of itself give rise to any right on the part of the offender to return to the United Kingdom.

(3G) In this section “relevant foreign offender” means—

- (a) an offender directions for whose removal from the United Kingdom have been, or may be, given under—
  - (i) Schedule 2 to the Immigration Act 1971, or
  - (ii) section 10 of the Immigration and Asylum Act 1999, or
- (b) an offender against whom a deportation order under section 5 of the Immigration Act 1971 is in force.]

(4) In this Part “authorised person” means—

- (a) a constable,
- (b) an investigating officer, or
- (c) a person authorised by a relevant prosecutor for the purposes of this section.

#### Textual Amendments

- F3** S. 22(3) substituted (8.7.2009 for specified purposes, 16.11.2009 for specified purposes, 8.4.2013 in so far as not already in force) by [Police and Justice Act 2006 \(c. 48\)](#), [ss. 17\(2\)](#), 53(1); S.I. 2009/1679, art. 2(1)(4); S.I. 2009/2774, art. 2(1)(3); S.I. 2013/592, art. 2(1)
- F4** Words in s. 22(3) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 134\(a\)](#), 151(1); S.I. 2013/453, art. 4(c)
- F5** S. 22(3A)-(3C) inserted (8.7.2009 for specified purposes, 16.11.2009 for specified purposes, 8.4.2013 for specified purposes) by [Police and Justice Act 2006 \(c. 48\)](#), [ss. 17\(3\)](#), 53(1); S.I. 2009/1679, art. 2(1)(2)(4); S.I. 2009/2774, art. 2(1)(2)(3); S.I. 2013/592, art. 2(1)(2)
- F6** Words in s. 22(3A) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 133\(2\)](#), 151(1); S.I. 2013/453, art. 4(c)



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**F7** S. 22(3D)-(3G) inserted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 134(b)**, 151(1); S.I. 2013/453, art. 4(c)

## 23 The five requirements

- (1) The first requirement is that the authorised person has evidence that the offender has committed an offence.
- (2) The second requirement is that a relevant prosecutor [<sup>F8</sup>or the authorised person ] decides—
  - (a) that there is sufficient evidence to charge the offender with the offence, and
  - (b) that a conditional caution should be given to the offender in respect of the offence.
- (3) The third requirement is that the offender admits to the authorised person that he committed the offence.
- (4) The fourth requirement is that the authorised person explains the effect of the conditional caution to the offender and warns him that failure to comply with any of the conditions attached to the caution may result in his being prosecuted for the offence.
- (5) The fifth requirement is that the offender signs a document which contains—
  - (a) details of the offence,
  - (b) an admission by him that he committed the offence,
  - (c) his consent to being given the conditional caution, and
  - (d) the conditions attached to the caution.

### Textual Amendments

**F8** Words in s. 23(2) inserted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 133(3)**, 151(1); S.I. 2013/453, art. 4(c)

## [<sup>F9</sup>23ZA Duty to consult victims

- (1) Before deciding what conditions to attach to a conditional caution, a relevant prosecutor or the authorised person must make reasonable efforts to obtain the views of the victim (if any) of the offence, and in particular the victim's views as to whether the offender should carry out any of the actions listed in the community remedy document.
- (2) If the victim expresses the view that the offender should carry out a particular action listed in the community remedy document, the prosecutor or authorised person must attach that as a condition unless it seems to the prosecutor or authorised person that it would be inappropriate to do so.
- (3) Where—
  - (a) there is more than one victim and they express different views, or
  - (b) for any other reason subsection (2) does not apply,
 the prosecutor or authorised person must nevertheless take account of any views expressed by the victim (or victims) in deciding what conditions to attach to the conditional caution.
- (4) In this section—



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“community remedy document” means the community remedy document (as revised from time to time) published under section 101 of the Anti-social Behaviour, Crime and Policing Act 2014 for the police area in which the offence was committed;

“victim” means the particular person who seems to the relevant prosecutor or authorised person to have been affected, or principally affected, by the offence.]

**Textual Amendments**

**F9** S. 23ZA inserted (20.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 103\(1\), 185\(1\)](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2014/2590, art. 3\(d\)](#)

**[<sup>F10</sup>23A Financial penalties**

- (1) A condition that the offender pay a financial penalty (a “financial penalty condition”) may not be attached to a conditional caution given in respect of an offence unless the offence is one that is prescribed, or of a description prescribed, in an order made by the Secretary of State.
- (2) An order under subsection (1) must prescribe, in respect of each offence or description of offence in the order, the maximum amount of the penalty that may be specified under subsection (5)(a).
- (3) The amount that may be prescribed in respect of any offence [<sup>F11</sup>(other than one to which subsection (4A) applies)] must not exceed—
  - (a) one quarter of the amount of the maximum fine for which a person is liable on summary conviction of the offence, or
  - (b) £250,whichever is the lower.
- (4) The Secretary of State may by order amend subsection (3) by—
  - (a) substituting a different fraction in paragraph (a);
  - (b) substituting a different figure in paragraph (b).

[ In the case of an offence for which a person is liable on summary conviction to a fine of <sup>F12</sup>(4A) an unlimited amount, the amount that may be prescribed must not exceed the amount for the time being specified in subsection (3)(b).]

- (5) Where a financial penalty condition is attached to a conditional caution, [<sup>F13</sup>the condition must] specify—
  - (a) the amount of the penalty,
  - [<sup>F14</sup>(b) the person to whom the financial penalty is to be paid and how it may be paid.]
- (6) To comply with the condition, the offender must pay the penalty [<sup>F15</sup>in accordance with the provision specified under subsection (5)(b)].

[ Where a financial penalty is (in accordance with the provision specified under <sup>F16</sup>(6A) subsection (5)(b)) paid to a person other than a designated officer for a local justice area, the person to whom it is paid must give the payment to such an officer.]

- (7) <sup>F17</sup> .....

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- (8) <sup>F17</sup> .....
- (9) <sup>F17</sup> ..... ]

#### Textual Amendments

- F10** S. 23A inserted (8.7.2009 for specified purposes, 16.11.2009 for specified purposes, 8.4.2013 in so far as not already in force) by **Police and Justice Act 2006 (c. 48), ss. 17(4), 53(1)**; S.I. 2009/1679, art. 2(1)(4); S.I. 2009/2774, art. 2(1)(3); S.I. 2013/592, art. 2(1)
- F11** Words in s. 23A(3) inserted (12.3.2015) by **The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 5 para. 10(2)** (with reg. 5(1))
- F12** S. 23A(4A) inserted (12.3.2015) by **The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 5 para. 10(3)** (with reg. 5(1))
- F13** Words in s. 23A(5) substituted (8.4.2013) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 133(4), 151(1)**; S.I. 2013/453, art. 4(c)
- F14** S. 23A(5)(b) substituted for s. 23A(5)(b)(c) (8.7.2009 for specified purposes, 8.4.2013 in so far as not already in force) by **Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 26 para. 60(2)**; S.I. 2009/1678, art. 3(b)(ii); S.I. 2013/616, art. 2(c)(ii)
- F15** Words in s. 23A(6) substituted (8.7.2009 for specified purposes, 8.4.2013 in so far as not already in force) by **Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 26 para. 60(3)**; S.I. 2009/1678, art. 3(b)(ii); S.I. 2013/616, art. 2(c)(ii)
- F16** S. 23A(6A) inserted (8.7.2009 for specified purposes, 8.4.2013 in so far as not already in force) by **Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 26 para. 60(4)**; S.I. 2009/1678, art. 3(b)(ii); S.I. 2013/616, art. 2(c)(ii)
- F17** S. 23A(7)-(9) repealed (8.7.2009) by **Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 149, 153, Sch. 26 para. 60(5), Sch. 28 Pt. 4**; S.I. 2009/1678, art. 3(c)

#### [<sup>F18</sup>23B Variation of conditions

A relevant prosecutor [<sup>F19</sup> or an authorised person ] may, with the consent of the offender, vary the conditions attached to a conditional caution by—

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

#### Textual Amendments

- F18** S. 23B inserted (8.7.2009) by **Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, Sch. 26 para. 61**; S.I. 2009/1678, art. 2(b)(ii)
- F19** Words in s. 23B inserted (8.4.2013) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 133(5), 151(1)**; S.I. 2013/453, art. 4(c)

#### 24 Failure to comply with conditions

- (1) If the offender fails, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, criminal proceedings may be instituted against the person for the offence in question.
- (2) The document mentioned in section 23(5) is to be admissible in such proceedings.

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- (3) Where such proceedings are instituted, the conditional caution is to cease to have effect.

#### **[<sup>F20</sup>24A Arrest for failure to comply**

- (1) If a constable has reasonable grounds for believing that the offender has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, he may arrest him without warrant.
- (2) A person arrested under this section must be—
- (a) charged with the offence in question,
  - [<sup>F21</sup>(b) released without charge and on bail if—
    - (i) the release is to enable a decision to be made as to whether the person should be charged with the offence, and
    - (ii) the pre-conditions for bail are satisfied, or
  - (c) released without charge and without bail (with or without any variation in the conditions attached to the caution) if paragraph (b) does not apply.]
- (3) Subsection (2) also applies in the case of—
- (a) a person who, having been released on bail under [<sup>F22</sup>subsection (2)(b)], returns to a police station to answer bail or is otherwise in police detention at a police station;
  - (b) a person who, having been released on bail under section 30A of the 1984 Act (bail elsewhere than at police station) as applied by section 24B below, attends at a police station to answer bail or is otherwise in police detention at a police station;
  - (c) a person who is arrested under section 30D or 46A of the 1984 Act (power of arrest for failure to answer to police bail) as applied by section 24B below.
- (4) Where a person is released under [<sup>F23</sup>subsection (2)(b)], the custody officer must inform him that he is being released to enable a decision to be made as to whether he should be charged with the offence in question.
- (5) A person arrested under this section, or any other person in whose case subsection (2) applies, may be kept in police detention—
- (a) to enable him to be dealt with in accordance with that subsection, or
  - (b) where applicable, to enable the power under [<sup>F24</sup>section 47(4A)] of the 1984 Act (power of custody officer to appoint a different or additional time for answering to police bail), as applied by section 24B below, to be exercised.
- If the person is not in a fit state to enable him to be so dealt with, or to enable that power to be exercised, he may be kept in police detention until he is.
- (6) The power under subsection (5)(a) includes power to keep the person in police detention if it is necessary to do so for the purpose of investigating whether he has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution.
- (7) Subsection (2) must be complied with as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.
- (8) Subsection (2) does not require a person who—

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- (a) falls within subsection (3)(a) or (b), and
- (b) is in police detention in relation to a matter other than the conditional caution, to be released if he is liable to be kept in detention in relation to that other matter.

[ In subsection (2) the reference to the pre-conditions for bail is to be read in accordance <sup>F25</sup>(8A) with section 50A of the 1984 Act.]

(9) In this Part—

“the 1984 Act” means the Police and Criminal Evidence Act 1984;

“police detention” has the same meaning as in the 1984 Act (see section 118(2) of that Act).

#### Textual Amendments

- F20** Ss. 24A, 24B inserted (29.6.2007) by [Police and Justice Act 2006 \(c. 48\)](#), **ss. 18(1)**, 53 (with s. 18(2)); S.I. 2007/1614, **art. 2(e)**
- F21** S. 24A(2)(b)(c) substituted (28.10.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), **Sch. 4 para. 15(2)** (with s. 45(3)); S.I. 2022/1075, **reg. 4(b)**
- F22** Words in s. 24A(3)(a) substituted (28.10.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), **Sch. 4 para. 15(3)** (with s. 45(3)); S.I. 2022/1075, **reg. 4(b)**
- F23** Words in s. 24A(4) substituted (28.10.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), **Sch. 4 para. 15(4)** (with s. 45(3)); S.I. 2022/1075, **reg. 4(b)**
- F24** Words in s. 24A(5)(b) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 64(8)(a)**, 183(1)(5)(e); S.I. 2017/399, **reg. 2, Sch. para. 16** (with **reg. 5**)
- F25** S. 24A(8A) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 60(4)**, 183(1)(5)(e); S.I. 2017/399, **reg. 2, Sch. para. 12** (with **reg. 5**)

#### Modifications etc. (not altering text)

- C3** S. 24A(1) applied by 1998 c. 37, s. 66E(4) (as inserted (16.11.2009 for specified purposes, 8.4.2013 in so far as not already in force) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 9 para. 3** (with **Sch. 27 para. 18**); S.I. 2009/2780, **art. 2(1)(c)(2)**; S.I. 2013/616, **art. 2(b)**)
- C4** Ss. 24A(2)-(9) applied by 1998 c. 37, s. 66E(5) (as inserted (16.11.2009 for specified purposes, 8.4.2013 in so far as not already in force) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 9 para. 3** (with **Sch. 27 para. 18**); S.I. 2009/2780, **art. 2(1)(c)(2)**; S.I. 2013/616, **art. 2(b)**)

## 24B Application of PACE provisions

- (1) In the case of a person arrested under section 24A, the provisions of the 1984 Act specified in subsection (2) apply, with the modifications specified in subsection (3) and with such further modifications as are necessary, as they apply in the case of a person arrested for an offence.
- (2) The provisions are—
  - (a) section 30 (arrest elsewhere than at police station);
  - (b) sections 30A to 30D (bail elsewhere than at police station);
  - (c) section 31 (arrest for further offence);
  - (d) section 34(1) to <sup>F26</sup>(5E)] (limitations on police detention);
  - (e) section 36 (custody officers at police stations);
  - (f) section 37(4) to <sup>F27</sup>(6C)] (record of grounds for detention);

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- (g) section 38 (duties of custody officer after charge);
  - (h) section 39 (responsibilities in relation to persons detained);
  - (i) section 55A (x-rays and ultrasound scans).
- (3) The modifications are—
- [ in section 30CA, omit subsections (4A) to (4D)];
  - <sup>F28</sup>(za)
    - (a) [<sup>F29</sup>in section 30CA(5), in paragraph (a) of the definition of “relevant officer”, for the reference to being involved in the investigation of the relevant offence] substitute a reference to being involved—
      - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
      - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
    - (b) in section 36(5) and (7), for the references to being involved in the investigation of an offence for which the person is in police detention substitute references to being involved—
      - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
      - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
    - (c) in section 38(1)(a)(iii) and (iv), for “arrested for” substitute “charged with”;
    - (d) in section 39(2) and (3), for the references to an offence substitute references to a failure to comply with conditions attached to the conditional caution.
- (4) Section 40 of the 1984 Act (review of police detention) applies to a person in police detention by virtue of section 24A above as it applies to a person in police detention in connection with the investigation of an offence, but with the following modifications—
- (a) omit subsections (8) and (8A);
  - (b) in subsection (9), for the reference to section 37(9) or 37D(5) substitute a reference to the second sentence of section 24A(5) above.
- (5) The following provisions of the 1984 Act apply to a person released on bail under [<sup>F30</sup>section 24A(2)(b)] above as they apply to a person released on bail under section 37 of that Act—
- <sup>F31</sup>(a) .....
  - (b) section 46A (power of arrest for failure to answer to police bail);
  - (c) section 47 (bail after arrest) [<sup>F32</sup>except subsections (4D) and (4E)] .
- (6) Section 54 of the 1984 Act (searches of detained persons) applies in the case of a person who falls within subsection (3) of section 24A above and is detained in a police station under that section as it applies in the case of a person who falls within section 34(7) of that Act and is detained at a police station under section 37.
- (7) Section 54A of the 1984 Act (searches and examination to ascertain identity) applies with the following modifications in the case of a person who is detained in a police station under section 24A above—

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- (a) in subsections (1)(a) and (12), after “as a person involved in the commission of an offence” insert “or as having failed to comply with any of the conditions attached to his conditional caution”;
- (b) in subsection (9)(a), after “the investigation of an offence” insert “, the investigation of whether the person in question has failed to comply with any of the conditions attached to his conditional caution”.]

#### Textual Amendments

- F20** Ss. 24A, 24B inserted (29.6.2007) by [Police and Justice Act 2006 \(c. 48\)](#), [ss. 18\(1\)](#), 53 (with s. 18(2)); [S.I. 2007/1614](#), [art. 2\(e\)](#)
- F26** Word in s. 24B(2)(d) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 66\(10\)\(a\)](#), 183(1)(5)(e); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 18](#)
- F27** Word in s. 24B(2)(f) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 66\(10\)\(b\)](#), 183(1)(5)(e); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 18](#)
- F28** [S. 24B\(3\)\(za\)](#) inserted (28.10.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 4 para. 23\(a\)](#) (with s. 45(3)); [S.I. 2022/1075](#), [reg. 4\(b\)](#)
- F29** Words in s. 24B(3)(a) substituted (28.10.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 4 para. 23\(b\)](#) (with s. 45(3)); [S.I. 2022/1075](#), [reg. 4\(b\)](#)
- F30** Words in s. 24B(5) substituted (28.10.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 4 para. 16](#) (with s. 45(3)); [S.I. 2022/1075](#), [reg. 4\(b\)](#)
- F31** [S. 24B\(5\)\(a\)](#) omitted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 64\(8\)\(b\)\(i\)](#), 183(1)(5)(e); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 16](#) (with [reg. 5](#))
- F32** Words in s. 24B(5)(c) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 64\(8\)\(b\)\(ii\)](#), 183(1)(5)(e); [S.I. 2017/399](#), [reg. 2](#), [Sch. para. 16](#) (with [reg. 5](#))

#### Modifications etc. (not altering text)

- C5** [S. 24B](#) applied by [1998 c. 37](#), [s. 66E\(5\)](#) (as inserted (16.11.2009 for specified purposes, 8.4.2013 in so far as not already in force) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 9 para. 3](#) (with [Sch. 27 para. 18](#)); [S.I. 2009/2780](#), [art. 2\(1\)\(c\)\(2\)](#); [S.I. 2013/616](#), [art. 2\(b\)](#))

## 25 Code of practice

- (1) The Secretary of State must prepare a code of practice in relation to conditional cautions.
- (2) The code may, in particular, include provision as to—
  - (a) the circumstances in which conditional cautions may be given,
  - (b) the procedure to be followed in connection with the giving of such cautions,
  - (c) the conditions which may be attached to such cautions and the time for which they may have effect,
  - (d) the category of constable or investigating officer by whom such cautions may be given,
  - (e) the persons who may be authorised by a relevant prosecutor for the purposes of section 22,
  - (f) the form which such cautions are to take and the manner in which they are to be given and recorded,

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- (g) the places where such cautions may be given, <sup>F33</sup> . . .
  - [<sup>F34</sup>(ga) the provision which may be made [<sup>F35</sup>in a condition] under section 23A(5)(b),]
  - (h) the monitoring of compliance with conditions attached to such cautions.
  - [<sup>F36</sup>(i) the exercise of the power of arrest conferred by section 24A(1), and
  - (j) who is to decide how a person should be dealt with under section 24A(2).]
- (3) After preparing a draft of the code the Secretary of State—
- (a) must publish the draft,
  - (b) must consider any representations made to him about the draft, and
  - (c) may amend the draft accordingly,
- but he may not publish or amend the draft without the consent of the Attorney General.
- (4) After the Secretary of State has proceeded under subsection (3) he must lay the code before each House of Parliament.
- (5) When he has done so he may bring the code into force by order.
- (6) The Secretary of State may from time to time revise a code of practice brought into force under this section.
- (7) Subsections (3) to (6) are to apply (with appropriate modifications) to a revised code as they apply to an original code.

#### Textual Amendments

- F33** Word in s. 25(2) repealed (1.4.2007 and expressed to be in force 29.6.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 52, 53, Sch. 15 Pt. 2; S.I. 2007/709, art. 3\(o\)\(t\)\(iii\); S.I. 2007/1614, art. 2\(j\)](#)
- F34** S. 25(2)(ga) inserted (8.7.2009 for specified purposes, 8.4.2013 in so far as not already in force) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 26 para. 62; S.I. 2009/1678, art. 3\(b\)\(ii\); S.I. 2013/616, art. 2\(c\)\(d\)\(ii\)](#)
- F35** Words in s. 25(2)(ga) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 133\(6\), 151\(1\); S.I. 2013/453, art. 4\(c\)](#)
- F36** S. 25(2)(i)(j) inserted (1.4.2007 and expressed to be in force 29.6.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 52, 53, Sch. 14 para. 58; S.I. 2007/709, art. 3\(o\)\(p\); S.I. 2007/1614, art. 2\(i\)](#)

## 26 Assistance of National Probation Service

- (1) Section 1 of the Criminal Justice and Court Services Act 2000 (c. 43) (purposes of Chapter 1) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) This Chapter also has effect for the purposes of providing for—
- (a) authorised persons to be given assistance in determining whether conditional cautions should be given and which conditions to attach to conditional cautions, and
  - (b) the supervision and rehabilitation of persons to whom conditional cautions are given.”
- (3) After subsection (3) there is inserted—
- “(4) In this section “authorised person” and “conditional caution” have the same meaning as in Part 3 of the Criminal Justice Act 2003.”



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## 27 Interpretation of Part 3

In this Part—

“authorised person” has the meaning given by section 22(4),

“conditional caution” has the meaning given by section 22(2),

“investigating officer” means [<sup>F37</sup>an officer of Revenue and Customs, appointed in accordance with section 2(1) of the Commissioners for Revenue and Customs Act 2005, or] a person designated as [<sup>F38</sup>a policing support officer or a policing support volunteer] under section 38 of the Police Reform Act 2002 (c. 30),

“the offender” has the meaning given by section 22(1),

“relevant prosecutor” means—

(a) the Attorney General,

(b) the Director of the Serious Fraud Office,

(ba) <sup>F39</sup>...

(c) the Director of Public Prosecutions,

(d) a Secretary of State,

(e) <sup>F40</sup>.....

(f) <sup>F40</sup>.....

(g) a person who is specified in an order made by the Secretary of State as being a relevant prosecutor for the purposes of this Part.

### Textual Amendments

**F37** Words in s. 27 inserted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50(6), 53, [Sch. 4 para. 129\(a\)](#); S.I. 2005/1126, [art. 2\(2\)](#)

**F38** Words in s. 27 substituted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 12 para. 16\(2\)](#); S.I. 2017/1139, reg. 2(k) (as amended by S.I. 2017/1162, reg. 2)

**F39** Words in s. 27 omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 2 para. 38](#)

**F40** Words in s. 27 repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50(6), 52(2), 53, [Sch. 4 para. 129\(b\)](#), [Sch. 5](#); S.I. 2005/1126, [art. 2\(2\)](#)

### Commencement Information

**I13** S. 27 wholly in force; s. 27 not in force at Royal Assent, see s. 336(3); s. 27 in force for certain purposes at 3.7.2004 by [S.I. 2004/1629](#), [art. 2](#); s. 27 wholly in force at 16.11.2009 by [S.I. 2009/2775](#), [art. 2](#)

## PART 4

### CHARGING ETC

## 28 Charging or release of persons in police detention

Schedule 2 (which makes provision in relation to the charging or release of persons in police detention) shall have effect.



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### Commencement Information

- I14** S. 28 wholly in force at 1.10.2007; s. 28 not in force at Royal Assent, see s. 336(3); s. 28 in force for certain purposes at 29.1.2004 by [S.I. 2004/81](#), [art. 4](#); s. 28 in force for certain purposes at 3.7.2004 by [S.I. 2004/1629](#), [art. 2](#) and s. 28 in force for certain further purposes at 1.10.2007 by [S.I. 2007/2874](#), [art. 2\(1\)\(2\)\(a\)](#)

## 29 <sup>[F41]</sup>Instituting proceedings by written charge

- (1) A <sup>[F42]</sup>relevant prosecutor] may institute criminal proceedings against a person by issuing a document (a “written charge”) which charges the person with an offence.

- <sup>[F43]</sup>(2) Where a relevant prosecutor issues a written charge, it must at the same time issue—
- a requisition, or
  - a single justice procedure notice.

- <sup>[F44]</sup>(2AA) A single justice procedure notice may be issued only if—

- the offence is a summary offence not punishable with imprisonment, and
- the person being charged has attained the age of 18, or is not an individual.]

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

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

- whether the person desires to plead guilty or not guilty, and
- if the person desires to plead guilty, whether or not the person desires to be tried in accordance with section 16A of the Magistrates' Courts Act 1980.]

- <sup>[F45]</sup>(2C) Subsection (2D) applies if—

- the offence is specified in regulations under section [16H\(3\)\(a\)](#) of the Magistrates' Courts Act 1980, and
- the relevant prosecutor decides that it would be appropriate for the automatic online conviction option to be offered (see section [16G\(1\)](#) of the Magistrates' Courts Act 1980).

- (2D) The single justice procedure notice must also explain—

- the steps that the person on whom the notice is served can take if the person wants to be offered the automatic online conviction option, and
- that if the person is offered, and accepts, that option, the requirements referred to in subsection (2B) will no longer apply.

- (2E) The Lord Chancellor may by order make provision about the matters that are to be taken into account by a relevant prosecutor before deciding as mentioned in subsection (2C)(b).]

- (3) <sup>[F46]</sup>Where a relevant prosecutor issues a written charge and a requisition, the] written charge and requisition must be served on the person concerned, and a copy of both must be served on the court named in the requisition.

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- [<sup>F47</sup>(3A) Where a relevant prosecutor issues a written charge and a single justice procedure notice, the written charge and notice must be served on the person concerned, and a copy of both must be served on the designated officer specified in the notice.
- (3B) If a single justice procedure notice is served on a person, the relevant prosecutor must—
- (a) at the same time serve on the person such documents as may be prescribed by Criminal Procedure Rules, and
  - (b) serve copies of those documents on the designated officer specified in the notice.]

[<sup>F48</sup>(3C) The written notification required by a single justice procedure notice may be served by the legal representative of the person charged on the person's behalf.]

(4) [<sup>F49</sup>A relevant prosecutor authorised to issue a requisition] is not to have the power to lay an information for the purpose of obtaining the issue of a summons under section 1 of the Magistrates' Courts Act 1980 (c. 43).

(5) In this section [<sup>F50</sup>“relevant prosecutor”] means—

    - (a) a police force or a person authorised by a police force to institute criminal proceedings,
    - (b) the Director of the Serious Fraud Office or a person authorised by him to institute criminal proceedings,
    - (c) the Director of Public Prosecutions or a person authorised by him to institute criminal proceedings,
    - <sup>F51</sup>(ca) .....
    - [<sup>F52</sup>(cb) the [<sup>F53</sup>Director General of the National Crime Agency] or a person authorised by him to institute criminal proceedings;]
    - (d) the Attorney General or a person authorised by him to institute criminal proceedings,
    - (e) a Secretary of State or a person authorised by a Secretary of State to institute criminal proceedings,
    - (f) the Commissioners of Inland Revenue or a person authorised by them to institute criminal proceedings,
    - (g) the Commissioners of Customs and Excise or a person authorised by them to institute criminal proceedings, or
    - (h) a person specified in an order made by the Secretary of State for the purposes of this section or a person authorised by such a person to institute criminal proceedings.

[<sup>F54</sup>(5A) An order under subsection (5)(h) specifying a person for the purposes of this section must also specify whether that person and a person authorised by that person to institute criminal proceedings—

    - (a) are authorised to issue written charges, requisitions and single justice procedure notices, or
    - (b) are authorised to issue only written charges and single justice procedure notices.]

(6) In subsection (5) “police force” has the meaning given by section 3(3) of the Prosecution of Offences Act 1985 (c. 23).

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### Textual Amendments

- F41** S. 29 heading substituted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), **Sch. 2 para. 4(2)(a)**; S.I. 2023/1194, reg. 2(e)
- F42** Words in s. 29(1) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 46(2), 95(1)** (with s. 46(10)); S.I. 2015/778, art. 3, Sch. 1 para. 37
- F43** S. 29(2)-(2B) substituted for s. 29(2) (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 46(3), 95(1)** (with s. 46(10)); S.I. 2015/778, art. 3, Sch. 1 para. 37
- F44** S. 29(2AA) inserted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), **Sch. 2 para. 4(2)(b)**; S.I. 2023/1194, reg. 2(e)
- F45** S. 29(2C)-(2E) inserted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), **Sch. 2 para. 4(2)(c)**; S.I. 2023/1194, reg. 2(e)
- F46** Words in s. 29(3) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 46(4), 95(1)** (with s. 46(10)); S.I. 2015/778, art. 3, Sch. 1 para. 37
- F47** S. 29(3A)(3B) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 46(5), 95(1)** (with s. 46(10)); S.I. 2015/778, art. 3, Sch. 1 para. 37
- F48** S. 29(3C) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 46(6), 95(1)** (with s. 46(10)); S.I. 2015/778, art. 3, Sch. 1 para. 37
- F49** Words in s. 29(4) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 46(7), 95(1)** (with s. 46(10)); S.I. 2015/778, art. 3, Sch. 1 para. 37
- F50** Words in s. 29(5) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 46(8), 95(1)** (with s. 46(10)); S.I. 2015/778, art. 3, Sch. 1 para. 37
- F51** S. 29(5)(ca) omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), **Sch. 2 para. 39**
- F52** S. 29(5)(cb) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 59, 178, Sch. 4 para. 196**; S.I. 2006/378, **art. 4(1)**, Sch. (subject to art. 4(2)-(7))
- F53** Words in s. 29(5)(cb) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 187**; S.I. 2013/1682, art. 3(v)
- F54** S. 29(5A) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 46(9), 95(1)** (with s. 46(10)); S.I. 2015/778, art. 3, Sch. 1 para. 37

### Commencement Information

- I15** S. 29 partly in force; s. 29 not in force at Royal Assent, see s. 336(3); s. 29(1)-(3) (5) (6) in force for certain purposes at 25.7.2007 by S.I. 2007/1999, **arts. 2, 3**; s. 29(1)-(3) (5) (6) in force for certain further purposes at 9.6.2008, 1.11.2009, 1.1.2011, 6.9.2011 and 3.10.2011 by S.I. 2008/1424, **arts. 2, 3**, S.I. 2009/2879, arts. 2, 3, S.I. 2010/3005, **art. 2**, S.I. 2011/2188, **arts. 2, 3**; s. 29(1)-(3)(5) in force for certain further purposes at 19.3.2012 by S.I. 2012/825, **art. 2**; s. 29(1)-(3)(5)(6) in force at 1.4.2014 for specified purposes by S.I. 2014/633, **art. 2**

## 30 Further provision about <sup>F55</sup>written charges]

- (1) <sup>F56</sup>Criminal Procedure Rules] may make—
- provision as to the form, content, recording, authentication and service of written charges<sup>F57</sup>, requisitions or single justice procedure notices], and
  - such other provision in relation to written charges<sup>F58</sup>, requisitions or single justice procedure notices] as appears to the <sup>F59</sup>Criminal Procedure Rule Committee] to be necessary or expedient.
- (2) Without limiting subsection (1), the provision which may be made by virtue of that subsection includes provision—

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*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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- (a) which applies (with or without modifications), or which disappplies, the provision of any enactment relating to the service of documents,
  - (b) for or in connection with the issue of further requisitions [<sup>F60</sup>or further single justice procedure notices].
- (3) <sup>F61</sup> . . . . .
- (4) Nothing in section 29 affects—
- (a) the power of a public prosecutor to lay an information for the purpose of obtaining the issue of a warrant under section 1 of the Magistrates' Courts Act 1980 (c. 43),
  - (b) the power of a person who is not a public prosecutor to lay an information for the purpose of obtaining the issue of a summons or warrant under section 1 of that Act, or
  - (c) any power to charge a person with an offence whilst he is in custody.
- (5) Except where the context otherwise requires, in any enactment contained in an Act passed before this Act—
- (a) any reference (however expressed) which is or includes a reference to an information within the meaning of section 1 of the Magistrates' Courts Act 1980 (c. 43) (or to the laying of such an information) is to be read as including a reference to a written charge (or to the issue of a written charge),
  - (b) any reference (however expressed) which is or includes a reference to a summons under section 1 of the Magistrates' Courts Act 1980 (or to a justice of the peace issuing such a summons) is to be read as including a reference to a requisition (or to a [<sup>F62</sup>relevant prosecutor] issuing a requisition)[<sup>F63</sup>, and
  - (c) any reference (however expressed) which is or includes a reference to a summons under section 1 of the Magistrates' Courts Act 1980 (or to a justice of the peace issuing such a summons) is to be read as including a reference to a single justice procedure notice (or to a relevant prosecutor issuing a single justice procedure notice).]
- (6) Subsection (5) does not apply to section 1 of the Magistrates' Courts Act 1980.
- (7) The reference in subsection (5) to an enactment contained in an Act passed before this Act includes a reference to an enactment contained in that Act as a result of an amendment to that Act made by this Act or by any other Act passed in the same Session as this Act.
- [<sup>F64</sup>(7A) The reference in subsection (5) to an enactment contained in an Act passed before this Act is to be read, in relation to paragraph (c) of subsection (5), as including—
- (a) a reference to an enactment contained in an Act passed before or in the same Session as the Criminal Justice and Courts Act 2015, and
  - (b) a reference to an enactment contained in such an Act as a result of an amendment to that Act made by the Criminal Justice and Courts Act 2015 or by any other Act passed in the same Session as the Criminal Justice and Courts Act 2015.]
- (8) In this section [<sup>F65</sup>“ relevant prosecutor”], “requisition”[<sup>F66</sup>, “single justice procedure notice”] and “written charge” have the same meaning as in section 29.

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### Textual Amendments

- F55** Words in s. 30 heading substituted (7.11.2023) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), [Sch. 2 para. 4\(3\)](#); S.I. 2023/1194, reg. 2(e)
- F56** Words in s. 30(1) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 46\(2\)\(a\)](#) (with art. 2(2))
- F57** Words in s. 30(1)(a) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 47\(2\)\(a\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 38
- F58** Words in s. 30(1)(b) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 47\(2\)\(b\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 38
- F59** Words in s. 30(1)(b) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 46\(2\)\(b\)](#) (with art. 2(2))
- F60** Words in s. 30(2)(b) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 47\(3\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 38
- F61** S. 30(3) omitted (1.9.2004) by virtue of [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 46\(3\)](#) (with art. 2(2))
- F62** Words in s. 30(5)(b) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 47\(4\)\(a\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 38
- F63** S. 30(5)(c) and word inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 47\(4\)\(b\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 38
- F64** S. 30(7A) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 47\(5\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 38
- F65** Words in s. 30(8) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 47\(6\)\(a\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 38
- F66** Words in s. 30(8) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 47\(6\)\(b\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 38

### Commencement Information

- I16** S. 30 partly in force; s. 30 not in force at Royal Assent, see s. 336(3); s. 30 in force for certain purposes at 25.7.2007 by [S.I. 2007/1999](#), arts. 2, 3; s. 30 in force for certain further purposes at 9.6.2008, 1.11.2009, 1.1.2011, 6.9.2011, 3.10.2011, 19.3.2012 and 1.4.2014 by [S.I. 2008/1424](#), arts. 2, 3, [S.I. 2009/2879](#), arts. 2, 3, [S.I. 2010/3005](#), art. 2, [S.I. 2011/2188](#), arts. 2, 3, [S.I. 2012/825](#), art. 2, [S.I. 2014/633](#), [art. 2](#)

## 31 Removal of requirement to substantiate information on oath

- (1) In section 1(3) of the Magistrates' Courts Act 1980 (warrant may not be issued unless information substantiated on oath) the words “and substantiated on oath” are omitted.
- (2) In section 13 of that Act (non-appearance of defendant: issue of warrant) in subsection (3)(a) the words “the information has been substantiated on oath and” are omitted.
- (3) For subsection (3A)(a) of that section there is substituted—
  - “(a) the offence to which the warrant relates is punishable, in the case of a person who has attained the age of 18, with imprisonment, or”.

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## PART 5

### DISCLOSURE

#### 32 Initial duty of disclosure by prosecutor

In the Criminal Procedure and Investigations Act 1996 (c. 25) (in this Part referred to as “the 1996 Act”), in subsection (1)(a) of section 3 (primary disclosure by prosecutor)

- (a) for “in the prosecutor’s opinion might undermine” there is substituted “ might reasonably be considered capable of undermining ”;
- (b) after “against the accused” there is inserted “ or of assisting the case for the accused ”.

#### Commencement Information

**I17** S. 32 wholly in force at 15.7.2005; s. 32 not in force at Royal Assent, see s. 336(3); s. 32 in force for E.W. at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 2](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); s. 32 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

#### 33 Defence disclosure

- (1) In section 5 of the 1996 Act (compulsory disclosure by accused), after subsection (5) there is inserted—

“(5A) Where there are other accused in the proceedings and the court so orders, the accused must also give a defence statement to each other accused specified by the court.

(5B) The court may make an order under subsection (5A) either of its own motion or on the application of any party.

(5C) A defence statement that has to be given to the court and the prosecutor (under subsection (5)) must be given during the period which, by virtue of section 12, is the relevant period for this section.

(5D) A defence statement that has to be given to a co-accused (under subsection (5A)) must be given within such period as the court may specify.”

- (2) After section 6 of that Act there is inserted—

#### “6A Contents of defence statement

- (1) For the purposes of this Part a defence statement is a written statement—
- (a) setting out the nature of the accused’s defence, including any particular defences on which he intends to rely,
  - (b) indicating the matters of fact on which he takes issue with the prosecution,
  - (c) setting out, in the case of each such matter, why he takes issue with the prosecution, and

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- (d) indicating any point of law (including any point as to the admissibility of evidence or an abuse of process) which he wishes to take, and any authority on which he intends to rely for that purpose.
- (2) A defence statement that discloses an alibi must give particulars of it, including—
- (a) the name, address and date of birth of any witness the accused believes is able to give evidence in support of the alibi, or as many of those details as are known to the accused when the statement is given;
  - (b) any information in the accused’s possession which might be of material assistance in identifying or finding any such witness in whose case any of the details mentioned in paragraph (a) are not known to the accused when the statement is given.
- (3) For the purposes of this section evidence in support of an alibi is evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.
- (4) The Secretary of State may by regulations make provision as to the details of the matters that, by virtue of subsection (1), are to be included in defence statements.”
- (3) After section 6A of that Act (inserted by subsection (2) above) there is inserted—

**“6B Updated disclosure by accused**

- (1) Where the accused has, before the beginning of the relevant period for this section, given a defence statement under section 5 or 6, he must during that period give to the court and the prosecutor either—
  - (a) a defence statement under this section (an “updated defence statement”), or
  - (b) a statement of the kind mentioned in subsection (4).
- (2) The relevant period for this section is determined under section 12.
- (3) An updated defence statement must comply with the requirements imposed by or under section 6A by reference to the state of affairs at the time when the statement is given.
- (4) Instead of an updated defence statement, the accused may give a written statement stating that he has no changes to make to the defence statement which was given under section 5 or 6.
- (5) Where there are other accused in the proceedings and the court so orders, the accused must also give either an updated defence statement or a statement of the kind mentioned in subsection (4), within such period as may be specified by the court, to each other accused so specified.
- (6) The court may make an order under subsection (5) either of its own motion or on the application of any party.”

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#### Commencement Information

**I18** S. 33 partly in force; s. 33 not in force at Royal Assent, see s. 336(3); s. 33(2) in force for E.W. at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 2 (subject to **art. 2(2)**, Sch. 2); s. 33(2) in force for N.I. at 15.7.2005 by S.I. 2005/1817, **art. 2(1)(2)** (subject to **art. 2(3)**); s. 33(1) in force for certain purposes at 24.7.2006 by S.I. 2006/1835, **art. 2**

### 34 Notification of intention to call defence witnesses

After section 6B of the 1996 Act (inserted by section 33 above) there is inserted—

#### “6C Notification of intention to call defence witnesses

- (1) The accused must give to the court and the prosecutor a notice indicating whether he intends to call any persons (other than himself) as witnesses at his trial and, if so—
  - (a) giving the name, address and date of birth of each such proposed witness, or as many of those details as are known to the accused when the notice is given;
  - (b) providing any information in the accused’s possession which might be of material assistance in identifying or finding any such proposed witness in whose case any of the details mentioned in paragraph (a) are not known to the accused when the notice is given.
- (2) Details do not have to be given under this section to the extent that they have already been given under section 6A(2).
- (3) The accused must give a notice under this section during the period which, by virtue of section 12, is the relevant period for this section.
- (4) If, following the giving of a notice under this section, the accused—
  - (a) decides to call a person (other than himself) who is not included in the notice as a proposed witness, or decides not to call a person who is so included, or
  - (b) discovers any information which, under subsection (1), he would have had to include in the notice if he had been aware of it when giving the notice,

he must give an appropriately amended notice to the court and the prosecutor.”

#### Commencement Information

**I19** S. 34 partly in force; s. 34 not in force at Royal Assent see s. 336(3); s. 34 in force for E.W. at 1.5.2010 by S.I. 2010/1183, **art. 3** (with **art. 4**)

PROSPECTIVE

### 35 Notification of names of experts instructed by defendant

After section 6C of the 1996 Act (inserted by section 34 above) there is inserted—



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#### **“6D Notification of names of experts instructed by accused**

- (1) If the accused instructs a person with a view to his providing any expert opinion for possible use as evidence at the trial of the accused, he must give to the court and the prosecutor a notice specifying the person’s name and address.
- (2) A notice does not have to be given under this section specifying the name and address of a person whose name and address have already been given under section 6C.
- (3) A notice under this section must be given during the period which, by virtue of section 12, is the relevant period for this section.”

### **36 Further provisions about defence disclosure**

After section 6D of the 1996 Act (inserted by section 35 above) there is inserted—

#### **“6E Disclosure by accused: further provisions**

- (1) Where an accused’s solicitor purports to give on behalf of the accused—
  - (a) a defence statement under section 5, 6 or 6B, or
  - (b) a statement of the kind mentioned in section 6B(4),the statement shall, unless the contrary is proved, be deemed to be given with the authority of the accused.
- (2) If it appears to the judge at a pre-trial hearing that an accused has failed to comply fully with section 5, 6B or 6C, so that there is a possibility of comment being made or inferences drawn under section 11(5), he shall warn the accused accordingly.
- (3) In subsection (2) “pre-trial hearing” has the same meaning as in Part 4 (see section 39).
- (4) The judge in a trial before a judge and jury—
  - (a) may direct that the jury be given a copy of any defence statement, and
  - (b) if he does so, may direct that it be edited so as not to include references to matters evidence of which would be inadmissible.
- (5) A direction under subsection (4)—
  - (a) may be made either of the judge’s own motion or on the application of any party;
  - (b) may be made only if the judge is of the opinion that seeing a copy of the defence statement would help the jury to understand the case or to resolve any issue in the case.
- (6) The reference in subsection (4) to a defence statement is a reference—
  - (a) where the accused has given only an initial defence statement (that is, a defence statement given under section 5 or 6), to that statement;
  - (b) where he has given both an initial defence statement and an updated defence statement (that is, a defence statement given under section 6B), to the updated defence statement;

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- (c) where he has given both an initial defence statement and a statement of the kind mentioned in section 6B(4), to the initial defence statement.”

#### Commencement Information

**I20** S. 36 wholly in force at 15.7.2005; s. 36 not in force at Royal Assent, see s. 336(3); s. 36 in force for E.W. at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 2 (subject to art. 2(2), Sch. 2); s. 36 in force for N.I. at 15.7.2005 by S.I. 2005/1817, art. 2(1)(2) (subject to art. 2(3))

### 37 Continuing duty of disclosure by prosecutor

Before section 8 of the 1996 Act there is inserted—

#### “7A Continuing duty of prosecutor to disclose

- (1) This section applies at all times—
  - (a) after the prosecutor has complied with section 3 or purported to comply with it, and
  - (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.
- (2) The prosecutor must keep under review the question whether at any given time (and, in particular, following the giving of a defence statement) there is prosecution material which—
  - (a) might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused, and
  - (b) has not been disclosed to the accused.
- (3) If at any time there is any such material as is mentioned in subsection (2) the prosecutor must disclose it to the accused as soon as is reasonably practicable (or within the period mentioned in subsection (5)(a), where that applies).
- (4) In applying subsection (2) by reference to any given time the state of affairs at that time (including the case for the prosecution as it stands at that time) must be taken into account.
- (5) Where the accused gives a defence statement under section 5, 6 or 6B—
  - (a) if as a result of that statement the prosecutor is required by this section to make any disclosure, or further disclosure, he must do so during the period which, by virtue of section 12, is the relevant period for this section;
  - (b) if the prosecutor considers that he is not so required, he must during that period give to the accused a written statement to that effect.
- (6) For the purposes of this section prosecution material is material—
  - (a) which is in the prosecutor’s possession and came into his possession in connection with the case for the prosecution against the accused, or
  - (b) which, in pursuance of a code operative under Part 2, he has inspected in connection with the case for the prosecution against the accused.

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- (7) Subsections (3) to (5) of section 3 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that.
- (8) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.
- (9) Material must not be disclosed under this section to the extent that it is material the disclosure of which is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000 (c. 23).”

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**Commencement Information**

**I21** S. 37 wholly in force at 15.7.2005; s. 37 not in force at Royal Assent, see s. 336(3); s. 37 in force for E.W. at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 2](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); s. 37 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

### 38 Application by defence for disclosure

In section 8 of the 1996 Act (application by accused for disclosure), for subsections (1) and (2) there is substituted—

- “(1) This section applies where the accused has given a defence statement under section 5, 6 or 6B and the prosecutor has complied with section 7A(5) or has purported to comply with it or has failed to comply with it.
- (2) If the accused has at any time reasonable cause to believe that there is prosecution material which is required by section 7A to be disclosed to him and has not been, he may apply to the court for an order requiring the prosecutor to disclose it to him.”

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**Commencement Information**

**I22** S. 38 wholly in force at 15.7.2005; s. 38 not in force at Royal Assent, see s. 336(3); s. 38 in force for E.W. at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 2](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); s. 37 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

### 39 Faults in defence disclosure

For section 11 of the 1996 Act there is substituted—

**“11 Faults in disclosure by accused**

- (1) This section applies in the three cases set out in subsections (2), (3) and (4).
- (2) The first case is where section 5 applies and the accused—
  - (a) fails to give an initial defence statement,
  - (b) gives an initial defence statement but does so after the end of the period which, by virtue of section 12, is the relevant period for section 5,

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- (c) is required by section 6B to give either an updated defence statement or a statement of the kind mentioned in subsection (4) of that section but fails to do so,
  - (d) gives an updated defence statement or a statement of the kind mentioned in section 6B(4) but does so after the end of the period which, by virtue of section 12, is the relevant period for section 6B,
  - (e) sets out inconsistent defences in his defence statement, or
  - (f) at his trial—
    - (i) puts forward a defence which was not mentioned in his defence statement or is different from any defence set out in that statement,
    - (ii) relies on a matter which, in breach of the requirements imposed by or under section 6A, was not mentioned in his defence statement,
    - (iii) adduces evidence in support of an alibi without having given particulars of the alibi in his defence statement, or
    - (iv) calls a witness to give evidence in support of an alibi without having complied with section 6A(2)(a) or (b) as regards the witness in his defence statement.
- (3) The second case is where section 6 applies, the accused gives an initial defence statement, and the accused—
- (a) gives the initial defence statement after the end of the period which, by virtue of section 12, is the relevant period for section 6, or
  - (b) does any of the things mentioned in paragraphs (c) to (f) of subsection (2).
- (4) The third case is where the accused—
- (a) gives a witness notice but does so after the end of the period which, by virtue of section 12, is the relevant period for section 6C, or
  - (b) at his trial calls a witness (other than himself) not included, or not adequately identified, in a witness notice.
- (5) Where this section applies—
- (a) the court or any other party may make such comment as appears appropriate;
  - (b) the court or jury may draw such inferences as appear proper in deciding whether the accused is guilty of the offence concerned.
- (6) Where—
- (a) this section applies by virtue of subsection (2)(f)(ii) (including that provision as it applies by virtue of subsection (3)(b)), and
  - (b) the matter which was not mentioned is a point of law (including any point as to the admissibility of evidence or an abuse of process) or an authority,
- comment by another party under subsection (5)(a) may be made only with the leave of the court.
- (7) Where this section applies by virtue of subsection (4), comment by another party under subsection (5)(a) may be made only with the leave of the court.

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- (8) Where the accused puts forward a defence which is different from any defence set out in his defence statement, in doing anything under subsection (5) or in deciding whether to do anything under it the court shall have regard—
- (a) to the extent of the differences in the defences, and
  - (b) to whether there is any justification for it.
- (9) Where the accused calls a witness whom he has failed to include, or to identify adequately, in a witness notice, in doing anything under subsection (5) or in deciding whether to do anything under it the court shall have regard to whether there is any justification for the failure.
- (10) A person shall not be convicted of an offence solely on an inference drawn under subsection (5).
- (11) Where the accused has given a statement of the kind mentioned in section 6B(4), then, for the purposes of subsections (2)(f)(ii) and (iv), the question as to whether there has been a breach of the requirements imposed by or under section 6A or a failure to comply with section 6A(2)(a) or (b) shall be determined—
- (a) by reference to the state of affairs at the time when that statement was given, and
  - (b) as if the defence statement was given at the same time as that statement.
- (12) In this section—
- (a) “initial defence statement” means a defence statement given under section 5 or 6;
  - (b) “updated defence statement” means a defence statement given under section 6B;
  - (c) a reference simply to an accused’s “defence statement” is a reference—
    - (i) where he has given only an initial defence statement, to that statement;
    - (ii) where he has given both an initial and an updated defence statement, to the updated defence statement;
    - (iii) where he has given both an initial defence statement and a statement of the kind mentioned in section 6B(4), to the initial defence statement;
  - (d) a reference to evidence in support of an alibi shall be construed in accordance with section 6A(3);
  - (e) “witness notice” means a notice given under section 6C.”

#### Commencement Information

**I23** S. 39 partly in force; s. 39 not in force at Royal Assent, see s. 336(3); s. 39 in force for E.W. for certain purposes at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 2 (subject to art. 2(2), Sch. 2); s. 39 in force for N.I. for certain purposes at 15.7.2005 by S.I. 2005/1817, art. 2(1)(2) (subject to art. 2(3)); s. 39 in force for E.W. for certain purposes at 1.5.2010 by S.I. 2010/1183, art. 3 (with art. 4)

## 40 Code of practice for police interviews of witnesses notified by accused

In Part 1 of the 1996 Act after section 21 there is inserted—

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### **“21A Code of practice for police interviews of witnesses notified by accused**

- (1) The Secretary of State shall prepare a code of practice which gives guidance to police officers, and other persons charged with the duty of investigating offences, in relation to the arranging and conducting of interviews of persons—
  - (a) particulars of whom are given in a defence statement in accordance with section 6A(2), or
  - (b) who are included as proposed witnesses in a notice given under section 6C.
- (2) The code must include (in particular) guidance in relation to—
  - (a) information that should be provided to the interviewee and the accused in relation to such an interview;
  - (b) the notification of the accused’s solicitor of such an interview;
  - (c) the attendance of the interviewee’s solicitor at such an interview;
  - (d) the attendance of the accused’s solicitor at such an interview;
  - (e) the attendance of any other appropriate person at such an interview taking into account the interviewee’s age or any disability of the interviewee.
- (3) Any police officer or other person charged with the duty of investigating offences who arranges or conducts such an interview shall have regard to the code.
- (4) In preparing the code, the Secretary of State shall consult—
  - (a) to the extent the code applies to England and Wales—
    - (i) any person who he considers to represent the interests of chief officers of police;
    - (ii) the General Council of the Bar;
    - (iii) the Law Society of England and Wales;
    - (iv) the Institute of Legal Executives;
  - (b) to the extent the code applies to Northern Ireland—
    - (i) the Chief Constable of the Police Service of Northern Ireland;
    - (ii) the General Council of the Bar of Northern Ireland;
    - (iii) the Law Society of Northern Ireland;
  - (c) such other persons as he thinks fit.
- (5) The code shall not come into operation until the Secretary of State by order so provides.
- (6) The Secretary of State may from time to time revise the code and subsections (4) and (5) shall apply to a revised code as they apply to the code as first prepared.
- (7) An order bringing the code into operation may not be made unless a draft of the order has been laid before each House of Parliament and approved by a resolution of each House.
- (8) An order bringing a revised code into operation shall be laid before each House of Parliament if the order has been made without a draft having been so laid and approved by a resolution of each House.

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- (9) When an order or a draft of an order is laid in accordance with subsection (7) or (8), the code to which it relates shall also be laid.
- (10) No order or draft of an order may be laid until the consultation required by subsection (4) has taken place.
- (11) A failure by a person mentioned in subsection (3) to have regard to any provision of a code for the time being in operation by virtue of an order under this section shall not in itself render him liable to any criminal or civil proceedings.
- (12) In all criminal and civil proceedings a code in operation at any time by virtue of an order under this section shall be admissible in evidence.
- (13) If it appears to a court or tribunal conducting criminal or civil proceedings that—
- (a) any provision of a code in operation at any time by virtue of an order under this section, or
  - (b) any failure mentioned in subsection (11),
- is relevant to any question arising in the proceedings, the provision or failure shall be taken into account in deciding the question.”

#### Commencement Information

**I24** S. 40 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, **art. 2(1)(2)** (subject to **art. 2(3)-(6)**)

## PART 6

### ALLOCATION AND SENDING OF OFFENCES

#### 41 Allocation of offences triable either way, and sending cases to Crown Court

Schedule 3 (which makes provision in relation to the allocation and other treatment of offences triable either way, and the sending of cases to the Crown Court) shall have effect.

#### Commencement Information

- I25** S. 41 partly in force; s. 41 not in force at Royal Assent, see s. 336(3); s. 41 in force for certain purposes at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, **Sch. 1** para. 3 (subject to **art. 2(2)**, **Sch. 2**); s. 41 in force for certain further purposes at 18.5.2012 by S.I. 2012/1320, **art. 2(a)**; s. 41 in force for certain further purposes at 18.6.2012 by S.I. 2012/1320, arts. 3(a), **4(1)(a)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I26** S. 41 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, **art. 2(1)(a)(2)(3)**, **Sch.** (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I27** S. 41 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(a)(2)(3)** (with arts. 3, 4)

#### 42 Mode of trial for certain firearms offences: transitory arrangements

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

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- (2) In section 24 (summary trial of information against child or young person for indictable offence)—
- (a) in subsection (1), for “homicide” there is substituted “ one falling within subsection (1B) below ”,
  - (b) in subsection (1A)(a), for “of homicide” there is substituted “ falling within subsection (1B) below ”,
  - (c) after subsection (1A), there is inserted—
    - “(1B) An offence falls within this subsection if—
    - (a) it is an offence of homicide; or
    - (b) each of the requirements of section 51A(1) of the Firearms Act 1968 would be satisfied with respect to—
      - (i) the offence; and
      - (ii) the person charged with it,
 if he were convicted of the offence.”
- (3) In section 25 (power to change from summary trial to committal proceedings and vice versa), in subsection (5), for “homicide” there is substituted “ one falling within section 24(1B) above ”.

## PART 7

### TRIALS ON INDICTMENT WITHOUT A JURY

PROSPECTIVE

#### **43 Applications by prosecution for certain fraud cases to be conducted without a jury**

[<sup>F67</sup>(1) This section applies where—

- (a) one or more defendants are to be tried on indictment for one or more offences, and
  - (b) notice has been given under section 51B of the Crime and Disorder Act 1998 (c. 37) (notices in serious or complex fraud cases) in respect of that offence or those offences.
- (2) The prosecution may apply to a judge of the Crown Court for the trial to be conducted without a jury.
- (3) If an application under subsection (2) is made and the judge is satisfied that the condition in subsection (5) is fulfilled, he may make an order that the trial is to be conducted without a jury; but if he is not so satisfied he must refuse the application.
- (4) The judge may not make such an order without the approval of the Lord Chief Justice or a judge nominated by him.
- (5) The condition is that the complexity of the trial or the length of the trial (or both) is likely to make the trial so burdensome to the members of a jury hearing the trial that the interests of justice require that serious consideration should be given to the question of whether the trial should be conducted without a jury.



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- (6) In deciding whether or not he is satisfied that that condition is fulfilled, the judge must have regard to any steps which might reasonably be taken to reduce the complexity or length of the trial.
- (7) But a step is not to be regarded as reasonable if it would significantly disadvantage the prosecution.]

#### Textual Amendments

**F67** S. 43 repealed (E.W.) (1.5.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. 113, 120, **Sch. 10 Pt. 10**

#### 44 Application by prosecution for trial to be conducted without a jury where danger of jury tampering

- (1) This section applies where one or more defendants are to be tried on indictment for one or more offences.
- (2) The prosecution may apply to a judge of the Crown Court for the trial to be conducted without a jury.
- (3) If an application under subsection (2) is made and the judge is satisfied that both of the following two conditions are fulfilled, he must make an order that the trial is to be conducted without a jury; but if he is not so satisfied he must refuse the application.
- (4) The first condition is that there is evidence of a real and present danger that jury tampering would take place.
- (5) The second condition is that, notwithstanding any steps (including the provision of police protection) which might reasonably be taken to prevent jury tampering, the likelihood that it would take place would be so substantial as to make it necessary in the interests of justice for the trial to be conducted without a jury.
- (6) The following are examples of cases where there may be evidence of a real and present danger that jury tampering would take place—
  - (a) a case where the trial is a retrial and the jury in the previous trial was discharged because jury tampering had taken place,
  - (b) a case where jury tampering has taken place in previous criminal proceedings involving the defendant or any of the defendants,
  - (c) a case where there has been intimidation, or attempted intimidation, of any person who is likely to be a witness in the trial.

#### Commencement Information

**I28** S. 44 wholly in force at 24.7.2006, see s. 336(3) and [S.I. 2006/1835](#), **art. 2** (subject to [art. 3](#))

#### 45 Procedure for applications under [<sup>F68</sup>sections 43 and ][<sup>F68</sup>section]44

- (1) This section applies—
  - (a) [<sup>F69</sup>to an application under section 43, and]
  - (b) to an application under section 44.

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- (2) An application to which this section applies must be determined at a preparatory hearing (within the meaning of the 1987 Act or Part 3 of the 1996 Act).
- (3) The parties to a preparatory hearing at which an application to which this section applies is to be determined must be given an opportunity to make representations with respect to the application.
- (4) In section 7(1) of the 1987 Act (which sets out the purposes of preparatory hearings) for paragraphs (a) to (c) there is substituted—
- “(a) identifying issues which are likely to be material to the determinations and findings which are likely to be required during the trial,
  - (b) if there is to be a jury, assisting their comprehension of those issues and expediting the proceedings before them,
  - (c) determining an application to which section 45 of the Criminal Justice Act 2003 applies,”.
- (5) In section 9(11) of that Act (appeal to Court of Appeal) after “above,” there is inserted “ from the refusal by a judge of an application to which section 45 of the Criminal Justice Act 2003 applies or from an order of a judge under section [F70 43 or] 44 of that Act which is made on the determination of such an application, ”.
- (6) In section 29 of the 1996 Act (power to order preparatory hearing) after subsection (1) there is inserted—
- “(1A) A judge of the Crown Court may also order that a preparatory hearing shall be held if an application to which section 45 of the Criminal Justice Act 2003 applies (application for trial without jury) is made.”
- (7) In subsection (2) of that section (which sets out the purposes of preparatory hearings) for paragraphs (a) to (c) there is substituted—
- “(a) identifying issues which are likely to be material to the determinations and findings which are likely to be required during the trial,
  - (b) if there is to be a jury, assisting their comprehension of those issues and expediting the proceedings before them,
  - (c) determining an application to which section 45 of the Criminal Justice Act 2003 applies,”.
- (8) F71 .....
- (9) In section 35(1) of that Act (appeal to Court of Appeal) after “31(3),” there is inserted “ from the refusal by a judge of an application to which section 45 of the Criminal Justice Act 2003 applies or from an order of a judge under section [F70 43 or] 44 of that Act which is made on the determination of such an application, ”.
- (10) In this section—
- “the 1987 Act” means the Criminal Justice Act 1987 (c. 38),
  - “the 1996 Act” means the Criminal Procedure and Investigations Act 1996 (c. 25).

#### Textual Amendments

**F68** Word in s. 45 substituted (E.W.) (1.5.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 148\(2\)\(a\)](#)

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- F69** S. 45(1)(a) repealed (E.W.) (1.5.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 148\(2\)\(b\)](#), [Sch. 10 Pt. 10](#)
- F70** Words in s. 45(5)(9) repealed (E.W.) (1.5.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 148\(2\)\(c\)](#) (with s. 97)
- F71** S. 45(8) repealed (13.4.2006) by [Terrorism Act 2006 \(c. 11\), ss. 37\(5\), 39, Sch. 3](#); S.I. 2006/1013, [art. 2](#)

#### Commencement Information

- I29** S. 45 partly in force; s. 45 not in force at Royal Assent, see s. 336(3); s. 45 in force for certain purpose at 24.7.2006 by [S.I. 2006/1835, art. 2](#) (subject to [art. 3](#))

## 46 Discharge of jury because of jury tampering

- (1) This section applies where—
- a judge is minded during a trial on indictment to discharge the jury, and
  - he is so minded because jury tampering appears to have taken place.
- (2) Before taking any steps to discharge the jury, the judge must—
- inform the parties that he is minded to discharge the jury,
  - inform the parties of the grounds on which he is so minded, and
  - allow the parties an opportunity to make representations.
- (3) Where the judge, after considering any such representations, discharges the jury, he may make an order that the trial is to continue without a jury if, but only if, he is satisfied—
- that jury tampering has taken place, and
  - that to continue the trial without a jury would be fair to the defendant or defendants;
- but this is subject to subsection (4).
- (4) If the judge considers that it is necessary in the interests of justice for the trial to be terminated, he must terminate the trial.
- (5) Where the judge terminates the trial under subsection (4), he may make an order that any new trial which is to take place must be conducted without a jury if he is satisfied in respect of the new trial that both of the conditions set out in section 44 are likely to be fulfilled.
- (6) Subsection (5) is without prejudice to any other power that the judge may have on terminating the trial.
- (7) Subject to subsection (5), nothing in this section affects the application of section <sup>[<sup>F72</sup>43 or]</sup> 44 in relation to any new trial which takes place following the termination of the trial.

#### Textual Amendments

- F72** Words in s. 46(7) repealed (E.W.) (1.5.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 148\(3\)](#), [Sch. 10 Pt. 10](#)

#### Commencement Information

- I30** S. 46 wholly in force at 24.7.2006, see s. 336(3) and [S.I. 2006/1835, art. 2](#) (subject to [art. 3](#))

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## 47 Appeals

- (1) An appeal shall lie to the Court of Appeal from an order under section 46(3) or (5).
- (2) Such an appeal may be brought only with the leave of the judge or the Court of Appeal.
- (3) An order from which an appeal under this section lies is not to take effect—
  - (a) before the expiration of the period for bringing an appeal under this section, or
  - (b) if such an appeal is brought, before the appeal is finally disposed of or abandoned.
- (4) On the termination of the hearing of an appeal under this section, the Court of Appeal may confirm or revoke the order.
- (5) Subject to rules of court made under section 53(1) of the Supreme Court Act 1981 (c. 54) (power by rules to distribute business of Court of Appeal between its civil and criminal divisions)—
  - (a) the jurisdiction of the Court of Appeal under this section is to be exercised by the criminal division of that court, and
  - (b) references in this section to the Court of Appeal are to be construed as references to that division.
- (6) In section 33(1) of the Criminal Appeal Act 1968 (c. 19) (right of appeal to House of Lords) after “1996” there is inserted “ or section 47 of the Criminal Justice Act 2003 ”.
- (7) In section 36 of that Act (bail on appeal by defendant) after “hearings)” there is inserted “ or section 47 of the Criminal Justice Act 2003 ”.
- (8) The Secretary of State may make an order containing provision, in relation to proceedings before the Court of Appeal under this section, which corresponds to any provision, in relation to appeals or other proceedings before that court, which is contained in the Criminal Appeal Act 1968 (subject to any specified modifications).

### Commencement Information

**I31** S. 47 wholly in force at 24.7.2006, see s. 336(3) and [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#))

## 48 Further provision about trials without a jury

- (1) The effect of an order under section [<sup>F73</sup>43,] 44 or 46(5) is that the trial to which the order relates is to be conducted without a jury.
- (2) The effect of an order under section 46(3) is that the trial to which the order relates is to be continued without a jury.
- (3) Where a trial is conducted or continued without a jury, the court is to have all the powers, authorities and jurisdiction which the court would have had if the trial had been conducted or continued with a jury (including power to determine any question and to make any finding which would be required to be determined or made by a jury).
- (4) Except where the context otherwise requires, any reference in an enactment to a jury, the verdict of a jury or the finding of a jury is to be read, in relation to a trial conducted or continued without a jury, as a reference to the court, the verdict of the court or the finding of the court.

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- (5) Where a trial is conducted or continued without a jury and the court convicts a defendant—
- (a) the court must give a judgment which states the reasons for the conviction at, or as soon as reasonably practicable after, the time of the conviction, and
  - (b) the reference in section 18(2) of the Criminal Appeal Act 1968 (c. 19) (notice of appeal or of application for leave to appeal to be given within 28 days from date of conviction etc) to the date of the conviction is to be read as a reference to the date of the judgment mentioned in paragraph (a).
- (6) Nothing in this Part affects<sup>F74</sup> the requirement under section 4A of the Criminal Procedure (Insanity) Act 1964 that any question, finding or verdict mentioned in that section be determined, made or returned by a jury].

#### Textual Amendments

**F73** Word in s. 48(1) repealed (E.W.) (1.5.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, Sch. 9 para. 148(4), [Sch. 10 Pt. 10](#)

**F74** S. 48(6): words substituted (31.3.2005) for s. 48(6)(a)(b) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 59, 60 {Sch. 10 para. 60} (with Sch. 12 para. 8); [S.I. 2005/579](#), [art. 3\(f\)\(g\)](#)

#### Commencement Information

**I32** S. 48 partly in force; s. 48 not in force at Royal Assent, see s. 336(3); s. 48 in force for certain purposes at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#))

## 49 Rules of court

- (1) Rules of court may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this Part.
- (2) Without limiting subsection (1), rules of court may in particular make provision for time limits within which applications under this Part must be made or within which other things in connection with this Part must be done.
- (3) Nothing in this section is to be taken as affecting the generality of any enactment conferring powers to make rules of court.

## 50 Application of Part 7 to Northern Ireland

- (1) In its application to Northern Ireland this Part is to have effect—
- (a) subject to subsection (2), and
  - (b) subject to the modifications in subsections (3) to (16).
- (2) This Part does not apply in relation to a trial to which section 75 of the Terrorism Act 2000 (c. 11) (trial without jury for certain offences) applies.
- (3) For section 45 substitute—

### “45 Procedure for applications under sections 43 and 44

- (1) This section applies—
- (a) to an application under section 43, and

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- (b) to an application under section 44.
- (2) An application to which this section applies must be determined—
  - (a) at a preparatory hearing (within the meaning of the 1988 Order), or
  - (b) at a hearing specified in, or for which provision is made by, Crown Court rules.
- (3) The parties to a hearing mentioned in subsection (2) at which an application to which this section applies is to be determined must be given an opportunity to make representations with respect to the application.
- (4) In Article 6(1) of the 1988 Order (which sets out the purposes of preparatory hearings) for sub-paragraphs (a) to (c) there is substituted—
  - “(a) identifying issues which are likely to be material to the determinations and findings which are likely to be required during the trial;
  - (b) if there is to be a jury, assisting their comprehension of those issues and expediting the proceedings before them;
  - (c) determining an application to which section 45 of the Criminal Justice Act 2003 applies; or”.
- (5) In Article 8(11) of the 1988 Order (appeal to Court of Appeal) after “(3),” there is inserted “ from the refusal by a judge of an application to which section 45 of the Criminal Justice Act 2003 applies or from an order of a judge under section 43 or 44 of that Act which is made on the determination of such an application, ”.
- (6) In this section “the 1988 Order” means the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988.”
- (4) For section 47(1) substitute—
  - “(1) An appeal shall lie to the Court of Appeal—
    - (a) from the refusal by a judge at a hearing mentioned in section 45(2)
    - (b) of an application to which section 45 applies or from an order of a judge at such a hearing under section 43 or 44 which is made on the determination of such an application,
    - (b) from an order under section 46(3) or (5).”
- (5) In section 47(3) after “order” insert “ or a refusal of an application ”.
- (6) In section 47(4) for “confirm or revoke the order” substitute—
  - “(a) where the appeal is from an order, confirm or revoke the order, or
  - (b) where the appeal is from a refusal of an application, confirm the refusal or make the order which is the subject of the application”.
- (7) Omit section 47(5).
- (8) For section 47(6) substitute—
  - “(6) In section 31(1) of the Criminal Appeal (Northern Ireland) Act 1980 (right of appeal to [<sup>F75</sup>Supreme Court]) after “1988” there is inserted “ or section 47 of the Criminal Justice Act 2003 ”.”
- (9) For section 47(7) substitute—

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- “(7) In section 35 of that Act (bail) after “hearings)” there is inserted “ or section 47 of the Criminal Justice Act 2003 ”.”
- (10) In section 47(8)
- [<sup>F76</sup>(a) for “Secretary of State” substitute Department of Justice in Northern Ireland; and
- (b)] for “Criminal Appeal Act 1968” substitute “ Criminal Appeal (Northern Ireland) Act 1980 ”.
- (11) In section 48(4) after “enactment” insert “ (including any provision of Northern Ireland legislation) ”.
- (12) For section 48(5)(b) substitute—
- “(b) the reference in section 16(1) of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (notice of appeal or application for leave) to the date of the conviction is to be read as a reference to the date of the judgment mentioned in paragraph (a).”
- (13) In section 48(6)—
- [<sup>F77</sup>(a) for “section 4A of the Criminal Procedure (Insanity) Act 1964” substitute Article 49A of the Mental Health (Northern Ireland) Order 1986, and
- (b) for “that section” substitute that Article.]
- (14) After section 48 insert—

#### “48A Reporting restrictions

- (1) Sections 41 and 42 of the Criminal Procedure and Investigations Act 1996 (c. 25) are to apply in relation to—
- (a) a hearing of the kind mentioned in section 45(2)(b), and
- (b) any appeal or application for leave to appeal relating to such a hearing, as they apply in relation to a ruling under section 40 of that Act, but subject to the following modifications.
- (2) Section 41(2) of that Act is to have effect as if for paragraphs (a) to (d) there were substituted—
- “(a) a hearing of the kind mentioned in section 45(2)(b) of the Criminal Justice Act 2003;
- (b) any appeal or application for leave to appeal relating to such a hearing.”
- (3) Section 41(3) of that Act is to have effect as if—
- (a) for “(2)” there were substituted “ (2)(a) or an application to that judge for leave to appeal to the Court of Appeal ”, and
- (b) after “matter” in the second place where it occurs there were inserted “ or application ”.
- (4) Section 41 of that Act is to have effect as if after subsection (3) there were inserted—
- “(3A) The Court of Appeal may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of—
- (a) an appeal to that Court, or

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- (b) an application to that Court for leave to appeal.
- (3B) The [<sup>F78</sup>Supreme Court] may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of—
- (a) an appeal to [<sup>F79</sup>the Supreme Court] , or
- (b) an application to [<sup>F79</sup>the Supreme Court] for leave to appeal.”
- (5) Section 41(4) of that Act is to have effect as if for “(3) the judge” there were substituted “ (3), (3A) or (3B), the judge, the Court of Appeal or the [<sup>F80</sup>Supreme Court] ”.
- (6) Section 41(5) of that Act is to have effect as if for “(3) the judge” there were substituted “ (3), (3A) or (3B), the judge, the Court of Appeal or the [<sup>F80</sup>Supreme Court] ”.”
- (15) For section 49(2) substitute—
- “(2) Without limiting subsection (1), rules of court may in particular make provision—
- (a) for time limits within which applications under this Part must be made or within which other things in connection with this Part must be done;
- (b) in relation to hearings of the kind mentioned in section 45(2)(b) and appeals under section 47.”
- (16) In section 49(3)—
- (a) after “section” insert “ or section 45(2)(b) ”, and
- (b) after “enactment” insert “ (including any provision of Northern Ireland legislation) ”.

#### Textual Amendments

- F75** Words in s. 50(8) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#) ss. 40(4), 148, {Sch. 9 para. 82(2)(a)}; [S.I. 2009/1604, art. 2\(d\)](#)
- F76** Words in s. 50(10) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, [Sch. 14 para. 78\(2\)](#) (with arts. 28-31); [S.I. 2010/977, art. 1\(2\)](#)
- F77** S. 50(13)(a)(b) substituted (31.3.2005) for s. 50(13)(a)-(c) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 59, 60 {Sch. 10 para. 61} (with Sch. 12 para. 8); [S.I. 2005/579, art. 3\(e\)](#)
- F78** Words in s. 50(14) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#) ss. 40(4), 148, {Sch. 9 para. 82(2)(b)}; [S.I. 2009/1604, art. 2\(d\)](#)
- F79** Words in s. 50(14) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#) ss. 40(4), 148, {Sch. 9 para. 82(2)(b)}; [S.I. 2009/1604, art. 2\(d\)](#)
- F80** Words in s. 50(14) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#) ss. 40(4), 148, {Sch. 9 para. 82(2)(c)}; [S.I. 2009/1604, art. 2\(d\)](#)

#### Commencement Information

- I33** S. 50 partly in force; s. 50 not in force at Royal Assent, see s. 336(3); s. 50 in force for certain purposes at 8.1.2007 by [S.I. 2006/3422, art. 2](#)



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## PART 8

### LIVE LINKS

#### [<sup>F81</sup>51] Directions for live links in criminal proceedings

- (1) The court may, by a direction, require or permit a person to take part in eligible criminal proceedings through—
  - (a) a live audio link, or
  - (b) a live video link.
- (2) A direction under this section may be given in relation to a member of a jury only if the direction requires all members of the jury to take part through a live video link while present at the same place.
- (3) In this Part “eligible criminal proceedings” means—
  - (a) a preliminary hearing (see section 56(1)),
  - (b) a summary trial,
  - (c) a criminal appeal to the Crown Court and any proceedings that are preliminary or incidental to such an appeal,
  - (d) a trial on indictment or any other trial in the Crown Court for an offence,
  - (e) proceedings under section 4A or 5 of the Criminal Procedure (Insanity) Act 1964,
  - (f) proceedings under Part 3 of the Mental Health Act 1983,
  - (g) proceedings under—
    - (i) section 11 of the Powers of Criminal Courts (Sentencing) Act 2000, or
    - (ii) section 81(1)(g) of the Senior Courts Act 1981 or section 16 of this Act in respect of a person who has been remanded by a magistrates’ court on adjourning a case under that section of the 2000 Act,
  - (h) an appeal to the criminal division of the Court of Appeal and any proceedings that are preliminary or incidental to such an appeal,
  - (i) a reference to the Court of Appeal by the Attorney General under Part 4 of the Criminal Justice Act 1988 and any proceedings that are preliminary or incidental to such a reference,
  - (j) the hearing of a reference under section 9 or 11 of the Criminal Appeal Act 1995 and any proceedings that are preliminary or incidental to such a hearing,
  - (k) a hearing before a magistrates’ court or the Crown Court which is held after the defendant has entered a plea of guilty,
  - (l) a hearing under section 142(1) or (2) of the Magistrates’ Courts Act 1980,
  - (m) a hearing before the Court of Appeal under section 80 of this Act and any proceedings that are preliminary or incidental to such a hearing,
  - (n) any hearing following conviction held for the purpose of making a decision about bail in respect of the person convicted,
  - (o) a sentencing hearing (see section 56(1)), or
  - (p) an enforcement hearing (see section 56(1)).
- (4) The court may not give a direction under this section unless—
  - (a) the court is satisfied that it is in the interests of justice for the person to whom the direction relates to take part in the proceedings in accordance with the direction through the live audio link or live video link,

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- (b) the parties to the proceedings have been given the opportunity to make representations, and
  - (c) if so required by section 52(9), the relevant youth offending team has been given the opportunity to make representations.
- (5) In deciding whether to give a direction under this section, the court must consider—
- (a) any guidance given by the Lord Chief Justice, and
  - (b) all the circumstances of the case.
- (6) Those circumstances include in particular—
- (a) the availability of the person to whom the direction would relate,
  - (b) any need for that person to attend in person,
  - (c) the views of that person,
  - (d) the suitability of the facilities at the place where that person would take part in the proceedings in accordance with the direction,
  - (e) whether that person would be able to take part in the proceedings effectively if the person took part in accordance with the direction,
  - (f) in the case of a direction relating to a witness—
    - (i) the importance of the witness’s evidence to the proceedings, and
    - (ii) whether the direction might tend to inhibit any party to the proceedings from effectively testing the witness’s evidence, and
  - (g) the arrangements that would or could be put in place for members of the public to see or hear the proceedings as conducted in accordance with the direction.]

#### Textual Amendments

**F81** S. 51 substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. **200(1)**, **208(5)(y)**

#### [<sup>F82</sup>52 Further provision about the effect of live-link directions

- (1) The power conferred by section 51 includes power to give—
- (a) a direction that is applicable to several, or all, of the persons taking part in particular eligible criminal proceedings;
  - (b) a direction that is applicable to a particular person in respect of only some aspects of particular eligible criminal proceedings (such as giving evidence or attending the proceedings when not giving evidence);
  - (c) a direction requiring or permitting a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in eligible criminal proceedings through a live audio link or a live video link.
- (2) The court may vary or rescind a direction under section 51 at any time before or during the eligible criminal proceedings to which it relates (but this does not affect the court’s power to give a further direction under that section in relation to the proceedings).
- (3) A direction under section 51 may not be rescinded unless—
- (a) the court is satisfied that it is in the interests of justice for the direction to be rescinded,
  - (b) the parties to the proceedings have been given the opportunity to make representations, and

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- (c) if so required by subsection (9), the relevant youth offending team has been given the opportunity to make representations.
- (4) In relation to the variation of a direction given under section 51—
- (a) so far as the effect of the variation would be to allow a person to take part in eligible criminal proceedings through a live audio link or a live video link, or to alter (without removing) a person’s ability to do so, sections 51(4) and 53(1) to (3) apply as they apply to the giving of a direction;
  - (b) so far as the effect of the variation would be to remove a person’s ability to take part in eligible criminal proceedings through a live audio link or a live video link, subsection (3) applies as it applies to the rescission of a direction.
- (5) Section 51(5) and (6) applies in relation to the variation or rescission of a direction given under section 51 as it applies to the giving of a direction under that section.
- (6) A direction under section 51 may be given, varied or rescinded—
- (a) on an application by a party to the proceedings, or
  - (b) of the court’s own motion.
- But a party may not apply for a variation or rescission unless there has been a material change of circumstances since the direction was given or last varied.
- (7) The court must state in open court its reasons for refusing an application for the giving, variation or rescission of a direction under section 51 and, if it is a magistrates’ court, must cause them to be entered in the register of its proceedings.
- (8) If a hearing takes place in relation to the giving, variation or rescission of a direction under section 51, the court may require or permit a person to take part in that hearing through—
- (a) a live audio link, or
  - (b) a live video link.
- (9) The requirement referred to in section 51(4)(c) and subsection (3)(c) arises in a case where—
- (a) the defendant is a party to the proceedings, and
  - (b) either—
    - (i) the defendant has not attained the age of 18 years, or
    - (ii) the defendant has attained the age of 18 years but the court is dealing with the case as if the defendant had not attained that age.

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**Textual Amendments**

**F82** Ss. 52, 52A substituted for s. 52 (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(y), [Sch. 20 para. 1\(2\)](#)

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**Commencement Information**

**I34** S. 52 wholly in force at 26.4.2010; s. 52 not in force at Royal Assent, see s. 336(3); s. 52 in force for certain purposes at 7.12.2007 by [S.I. 2007/3451](#), [arts. 2, 3](#) (with [art. 4](#)); s. 52 in force in so far as not already in force at 26.4.2010 by [S.I. 2010/1183](#), [art. 2\(b\)](#) (with [art. 4](#))

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## 52A Further provision about the effect of live-link directions

- (1) A person who takes part in eligible criminal proceedings in accordance with a direction under section 51 is to be treated as complying with any requirement (however imposed or expressed) for that person to attend or appear before court, or to surrender to the custody of the court, for the purposes of that participation in those proceedings.
- (2) A person who takes part in eligible criminal proceedings in accordance with a direction under section 51 is to be treated as present in court for the purposes of those proceedings.
- (3) If eligible criminal proceedings are conducted with one or more persons taking part in accordance with a direction under section 51, the proceedings are to be regarded as taking place—
  - (a) if at least one member of the court is taking part in the proceedings while in a courtroom, in that courtroom (or, if more than one courtroom falls within this paragraph, such of them as the court directs),
  - (b) if no member of the court, but at least one other person, is taking part in the proceedings while in a courtroom, in that courtroom (or, if more than one courtroom falls within this paragraph, such of them as the court directs), or
  - (c) if no person is taking part in the proceedings while in a courtroom, at such place as the court directs (being a place where the court could lawfully sit for the purposes of those proceedings).
- (4) In subsection (3), “courtroom” includes any place where proceedings of the sort in question might ordinarily be held (if no person were taking part in the proceedings in accordance with a direction under section 51).
- (5) A statement made on oath by a witness outside the United Kingdom and given in evidence through a live audio link or a live video link in accordance with a direction under section 51 is to be treated for the purposes of section 1 of the Perjury Act 1911 as having been made in the proceedings in which it is given in evidence.]

### Textual Amendments

**F82** Ss. 52, 52A substituted for s. 52 (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(y), [Sch. 20 para. 1\(2\)](#)

## 53 <sup>[F83]</sup>Further provision about live links in magistrates' courts]

- (1) <sup>[F84]</sup>Subsections (2) and (3) apply] where—
  - (a) a magistrates' court is minded to give a direction under section 51 <sup>[F85]</sup>requiring or permitting a person to take part in proceedings before the court through a live audio link or a live video link], and
  - (b) suitable facilities for <sup>[F86]</sup>such participation] are not available at any <sup>[F87]</sup>place at] which the court can (apart from subsection (2)) lawfully sit.
- (2) The court may sit for the purposes of the whole or any part of the proceedings at any place at which such facilities are available and which has been <sup>[F88]</sup>authorised by a direction under section 30 of the Courts Act 2003].

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[<sup>F89</sup>(3) If the place mentioned in subsection (2) is outside the local justice area in which the justices act it shall be deemed to be in that area for the purpose of the jurisdiction of the justices acting in that area.]

[<sup>F90</sup>(4) The following functions of a magistrates' court may be discharged by a single justice—

- (a) giving a direction under section 51 or varying such a direction under section 52(2);
- (b) rescinding under section 52(2) a direction given under section 51 before the eligible criminal proceedings concerned begin;
- (c) requiring or permitting, under section 52(8), a person to take part by live audio link or live video link in a hearing about a matter within paragraph (a) or (b).]

#### Textual Amendments

- F83** S. 53 heading substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(3)(a)**
- F84** Words in s. 53(1) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(3)(b)(i)**
- F85** Words in s. 53(1)(a) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(3)(b)(ii)**
- F86** Words in s. 53(1)(b) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(3)(b)(iii)**
- F87** Words in s. 53(1)(b) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 99(a)**
- F88** Words in s. 53(2) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 99(b)**
- F89** S. 53(3) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 99(c)**
- F90** S. 53(4) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(3)(c)**

#### <sup>F91</sup>53A Requirement to attend court, perjury

#### Textual Amendments

- F91** S. 53A inserted (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 23 para. 4** (with ss. 88-90) (which affecting provision is continued by The Coronavirus Act 2020 (Delay in Expiry: Inquests, Courts and Tribunals, and Statutory Sick Pay) (England and Wales and Northern Ireland) Regulations 2022 (S.I. 2022/362), regs. 1(2), 2; but then repealed (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 201(1)**, 208(5))

#### 54 Warning to jury

- (1) This section applies where, as a result of a direction under section 51, evidence has been given through [<sup>F92</sup>a live audio link or a live video link by a witness (including the defendant)] in proceedings before the Crown Court.

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- (2) The judge may give the jury (if there is one) such direction as he thinks necessary to ensure that the jury gives the same weight to the evidence as if it had been given by the witness in the courtroom or other place where the proceedings are held.

#### Textual Amendments

**F92** Words in s. 54(1) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(y), [Sch. 20 para. 1\(4\)](#)

#### Commencement Information

**I35** S. 54 wholly in force at 26.4.2010; s. 54 not in force at Royal Assent, see s. 336(3); s. 54 in force for certain purposes at 7.12.2007 by [S.I. 2007/3451](#), [arts. 2, 3](#) (with [art. 4](#)); s. 54 in force in so far as not already in force at 26.4.2010 by [S.I. 2010/1183](#), [art. 2\(c\)](#) (with [art. 4](#))

## 55 Rules of court

- (1) [<sup>F93</sup>Criminal Procedure Rules] may make such provision as appears to the [<sup>F94</sup>Criminal Procedure Rule Committee] to be necessary or expedient for the purposes of this Part.
- (2) [<sup>F95</sup>Criminal Procedure Rules] may in particular make provision—
- as to the procedure to be followed in connection with applications under section [<sup>F96</sup>52(6)], and
  - as to the arrangements or safeguards to be put in place in connection with the operation of [<sup>F97</sup>live audio links and live video links].
- (3) The provision which may be made by virtue of subsection (2)(a) includes provision—
- for <sup>F98</sup>... applications to be determined by the court without a hearing,
  - for preventing the renewal of an unsuccessful application under section [<sup>F99</sup>52(6)] unless there has been a material change of circumstances,
  - for the manner in which confidential or sensitive information is to be treated in connection with an application under section [<sup>F100</sup>52(6)] and in particular as to its being disclosed to, or withheld from, a party to the proceedings.
- (4) Nothing in this section is to be taken as affecting the generality of any enactment conferring power to make [<sup>F101</sup>Criminal Procedure Rules].

#### Textual Amendments

**F93** Words in s. 55(1) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), [art. 3](#), [Sch. para. 47\(2\)\(a\)](#) (with [art. 2\(2\)](#))

**F94** Words in s. 55(1) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), [art. 3](#), [Sch. para. 47\(2\)\(b\)](#) (with [art. 2\(2\)](#))

**F95** Words in s. 55(2) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), [art. 3](#), [Sch. para. 47\(3\)](#) (with [art. 2\(2\)](#))

**F96** Word in s. 55(2)(a) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(y), [Sch. 20 para. 1\(5\)\(a\)\(i\)](#)

**F97** Words in s. 55(2)(b) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(y), [Sch. 20 para. 1\(5\)\(a\)\(ii\)](#)

**F98** Word in s. 55(3)(a) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(y), [Sch. 20 para. 1\(5\)\(b\)\(i\)](#)

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- F99** Word in s. 55(3)(b) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(5)(b)(ii)**
- F100** Word in s. 55(3)(c) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(5)(b)(iii)**
- F101** Words in s. 55(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 47(4)** (with art. 2(2))

## 56 Interpretation of Part 8

(1) In this Part—

**F102**

...

**F103**

[**F104**“bail” includes remand to local authority accommodation in accordance with Chapter 3 of Part 3 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,

“defendant” includes the person accused or convicted of an offence and, in the case of an enforcement hearing, the person liable to pay the sum or financial penalty concerned,

“eligible criminal proceedings” has the meaning given in section 51(3),

“enforcement hearing” means a hearing relating to collection, discharge, satisfaction or enforcement of—

- (a) a sum that has been adjudged to be paid on conviction for an offence by a magistrates’ court or the Crown Court, or
- (b) a financial penalty that is enforceable in accordance with section 85(6) and (7) of the Criminal Justice and Immigration Act 2008 as if it were such a sum (including a hearing to determine whether a financial penalty is so enforceable),

“live audio link”, in relation to a person (P) taking part in proceedings, means a live telephone link or other arrangement which—

- (a) enables P to hear all other persons taking part in the proceedings who are not in the same location as P, and
- (b) enables all other persons taking part in the proceedings who are not in the same location as P to hear P,

“live video link”, in relation to a person (P) taking part in proceedings, means a live television link or other arrangement which—

- (a) enables P to see and hear all other persons taking part in the proceedings who are not in the same location as P, and
- (b) enables all other persons taking part in the proceedings who are not in the same location as P to see and hear P,]

[**F105** “local justice area” has the same meaning as in the Courts Act 2003 (c. 39)],

[**F106**“preliminary hearing” means a hearing in proceedings for an offence held before the start of the trial (within the meaning of subsection (11A) or (11B) of section 22 of the Prosecution of Offences Act 1985), including, in the case of proceedings in the Crown Court, a preparatory hearing held under—

- (a) section 7 of the Criminal Justice Act 1987 (cases of serious or complex fraud), or
- (b) section 29 of the Criminal Procedure and Investigations Act 1996 (other serious, complex or lengthy cases),



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“relevant youth offending team” means the youth offending team (established under section 39 of the Crime and Disorder Act 1998) whose functions are exercisable in relation to the defendant concerned,

“sentencing hearing” means any hearing following conviction for an offence which is held for the purpose of—

- (a) proceedings (in a magistrates’ court) relating to committal to the Crown Court for sentencing,
- (b) sentencing the offender or determining how the court should deal with the offender in respect of the offence (including reviewing, amending or revoking such a sentence or determination), or
- (c) determining—
  - (i) how the offender has complied with a sentence given in respect of the offence, or
  - (ii) how the offender should be dealt with in respect of compliance with such a sentence,

and here “sentence” includes any way in which a court has determined that the offender should be dealt with in respect of the offence,]

F107

“witness”, in relation to any criminal proceedings, means a person called, or proposed to be called, to give evidence in the proceedings.

[<sup>F108</sup>(1A) In this Part, reference to taking part in proceedings means taking part in whatever capacity, including hearing the proceedings as a member of the court.

(1B) In the application of this Part in relation to a witness, a reference to taking part in proceedings includes attending those proceedings for a purpose preliminary or incidental to the giving of evidence.]

<sup>F109</sup>(2) .....

<sup>F110</sup>(3) .....

[<sup>F111</sup>(4) The following matters are to be disregarded for the purposes of the definitions of “live audio link” and “live video link” in subsection (1)—

- (a) the extent (if any) to which a person is unable to see or hear by reason of any impairment of eyesight or hearing;
- (b) the effect of any direction or order which provides for one person taking part in proceedings to be prevented by means of a screen or other arrangement from seeing another person taking part in the proceedings.]

(5) Nothing in this Part is to be regarded as affecting any power of a court—

- (a) to make an order, give directions or give leave of any description in relation to any witness (including the defendant or defendants), or
- (b) to exclude evidence at its discretion (whether by preventing questions being put or otherwise).

#### Textual Amendments

**F102** Words in s. 56(1) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(5)(y), [Sch. 20 para. 1\(6\)\(a\)\(i\)](#)

**F103** In s. 56(1) definition of “petty-sessional-court-house” omitted (1.4.2005) by virtue of [The Courts Act 2003 \(Consequential Provisions\) Order 2005](#) (S.I. 2005/886), art. 2, [Sch. para. 100](#)



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- F104** Words in s. 56(1) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(6)(a)(ii)**
- F105** In s. 56(1) definition of "local justice area" substituted (1.4.2005) for definition of "petty sessions area" by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 100**
- F106** Words in s. 56(1) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(6)(a)(iii)**
- F107** In s. 56(1) definition of "rules of court" omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 48** (with art. 2(2))
- F108** S. 56(1A)(1B) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(6)(b)**
- F109** S. 56(2) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(6)(c)**
- F110** S. 56(3) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(6)(c)**
- F111** S. 56(4) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(y), **Sch. 20 para. 1(6)(d)**

#### Commencement Information

- I36** S. 56 wholly in force at 26.4.2010; s. 56 not in force at Royal Assent, see s. 336(3); s. 56 in force for certain purposes at 7.12.2007 by S.I. 2007/3451, **arts. 2, 3** (with art. 4); s. 56 in force in so far as not already in force at 26.4.2010 by S.I. 2010/1183, **art. 2(d)** (with art. 4)

## PART 9

### PROSECUTION APPEALS

#### *Introduction*

#### 57 Introduction

- (1) In relation to a trial on indictment, the prosecution is to have the rights of appeal for which provision is made by this Part.
- (2) But the prosecution is to have no right of appeal under this Part in respect of—
  - (a) a ruling that a jury be discharged, or
  - (b) a ruling from which an appeal lies to the Court of Appeal by virtue of any other enactment.
- (3) An appeal under this Part is to lie to the Court of Appeal.
- (4) Such an appeal may be brought only with the leave of the judge or the Court of Appeal.

#### Commencement Information

- I37** S. 57 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 4** (subject to art. 2(2), **Sch. 2**)

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### *General right of appeal in respect of rulings*

#### **58 General right of appeal in respect of rulings**

- (1) This section applies where a judge makes a ruling in relation to a trial on indictment at an applicable time and the ruling relates to one or more offences included in the indictment.
- (2) The prosecution may appeal in respect of the ruling in accordance with this section.
- (3) The ruling is to have no effect whilst the prosecution is able to take any steps under subsection (4).
- (4) The prosecution may not appeal in respect of the ruling unless—
  - (a) following the making of the ruling, it—
    - (i) informs the court that it intends to appeal, or
    - (ii) requests an adjournment to consider whether to appeal, and
  - (b) if such an adjournment is granted, it informs the court following the adjournment that it intends to appeal.
- (5) If the prosecution requests an adjournment under subsection (4)(a)(ii), the judge may grant such an adjournment.
- (6) Where the ruling relates to two or more offences—
  - (a) any one or more of those offences may be the subject of the appeal, and
  - (b) if the prosecution informs the court in accordance with subsection (4) that it intends to appeal, it must at the same time inform the court of the offence or offences which are the subject of the appeal.
- (7) Where—
  - (a) the ruling is a ruling that there is no case to answer, and
  - (b) the prosecution, at the same time that it informs the court in accordance with subsection (4) that it intends to appeal, nominates one or more other rulings which have been made by a judge in relation to the trial on indictment at an applicable time and which relate to the offence or offences which are the subject of the appeal,

that other ruling, or those other rulings, are also to be treated as the subject of the appeal.
- (8) The prosecution may not inform the court in accordance with subsection (4) that it intends to appeal, unless, at or before that time, it informs the court that it agrees that, in respect of the offence or each offence which is the subject of the appeal, the defendant in relation to that offence should be acquitted of that offence if either of the conditions mentioned in subsection (9) is fulfilled.
- (9) Those conditions are—
  - (a) that leave to appeal to the Court of Appeal is not obtained, and
  - (b) that the appeal is abandoned before it is determined by the Court of Appeal.
- (10) If the prosecution informs the court in accordance with subsection (4) that it intends to appeal, the ruling mentioned in subsection (1) is to continue to have no effect in relation to the offence or offences which are the subject of the appeal whilst the appeal is pursued.

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- (11) If and to the extent that a ruling has no effect in accordance with this section—
- (a) any consequences of the ruling are also to have no effect,
  - (b) the judge may not take any steps in consequence of the ruling, and
  - (c) if he does so, any such steps are also to have no effect.
- (12) Where the prosecution has informed the court of its agreement under subsection (8) and either of the conditions mentioned in subsection (9) is fulfilled, the judge or the Court of Appeal must order that the defendant in relation to the offence or each offence concerned be acquitted of that offence.
- (13) In this section “applicable time”, in relation to a trial on indictment, means any time (whether before or after the commencement of the trial) before the [<sup>F112</sup>time when the judge starts his] summing-up to the jury.
- [<sup>F113</sup>(14) The reference in subsection (13) to the time when the judge starts his summing-up to the jury includes the time when the judge would start his summing-up to the jury but for the making of an order under Part 7.]

#### Textual Amendments

**F112** Words in s. 58(13) substituted (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 30\(1\)](#), 60; [S.I. 2006/3423](#), [art. 2](#) (subject to [art. 3](#))

**F113** S. 58(14) inserted (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 30\(2\)](#), 60; [S.I. 2006/3423](#), [art. 2](#) (subject to [art. 3](#))

#### Commencement Information

**I38** S. 58 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 59 Expedited and non-expedited appeals

- (1) Where the prosecution informs the court in accordance with section 58(4) that it intends to appeal, the judge must decide whether or not the appeal should be expedited.
- (2) If the judge decides that the appeal should be expedited, he may order an adjournment.
- (3) If the judge decides that the appeal should not be expedited, he may—
- (a) order an adjournment, or
  - (b) discharge the jury (if one has been sworn).
- (4) If he decides that the appeal should be expedited, he or the Court of Appeal may subsequently reverse that decision and, if it is reversed, the judge may act as mentioned in subsection (3)(a) or (b).

#### Commencement Information

**I39** S. 59 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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## 60 Continuation of proceedings for offences not affected by ruling

- (1) This section applies where the prosecution informs the court in accordance with section 58(4) that it intends to appeal.
- (2) Proceedings may be continued in respect of any offence which is not the subject of the appeal.

### Commencement Information

**I40** S. 60 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 4 (subject to art. 2(2), Sch. 2)

## 61 Determination of appeal by Court of Appeal

- (1) On an appeal under section 58, the Court of Appeal may confirm, reverse or vary any ruling to which the appeal relates.
- (2) Subsections (3) to (5) apply where the appeal relates to a single ruling.
- (3) Where the Court of Appeal confirms the ruling, it must, in respect of the offence or each offence which is the subject of the appeal, order that the defendant in relation to that offence be acquitted of that offence.
- (4) Where the Court of Appeal reverses or varies the ruling, it must, in respect of the offence or each offence which is the subject of the appeal, do any of the following—
  - (a) order that proceedings for that offence may be resumed in the Crown Court,
  - (b) order that a fresh trial may take place in the Crown Court for that offence,
  - (c) order that the defendant in relation to that offence be acquitted of that offence.
- [<sup>F114</sup>(5) But the Court of Appeal may not make an order under subsection (4)(c) in respect of an offence unless it considers that the defendant could not receive a fair trial if an order were made under subsection (4)(a) or (b).]
- (6) Subsections (7) and (8) apply where the appeal relates to a ruling that there is no case to answer and one or more other rulings.
- (7) Where the Court of Appeal confirms the ruling that there is no case to answer, it must, in respect of the offence or each offence which is the subject of the appeal, order that the defendant in relation to that offence be acquitted of that offence.
- (8) Where the Court of Appeal reverses or varies the ruling that there is no case to answer, it must in respect of the offence or each offence which is the subject of the appeal, make any of the orders mentioned in subsection (4)(a) to (c) (but subject to subsection (5)).

### Textual Amendments

**F114** S. 61(5) substituted (14.7.2008) by **Criminal Justice and Immigration Act 2008 (c. 4)**, **ss. 44**, 153 (with Sch. 27 para. 16); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 23

### Commencement Information

**I41** S. 61 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 4 (subject to art. 2(2), Sch. 2)

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PROSPECTIVE

### *Right of appeal in respect of evidentiary rulings*

## **62 Right of appeal in respect of evidentiary rulings**

- (1) The prosecution may, in accordance with this section and section 63, appeal in respect of—
  - (a) a single qualifying evidentiary ruling, or
  - (b) two or more qualifying evidentiary rulings.
- (2) A “qualifying evidentiary ruling” is an evidentiary ruling of a judge in relation to a trial on indictment which is made at any time (whether before or after the commencement of the trial) before the opening of the case for the defence.
- (3) The prosecution may not appeal in respect of a single qualifying evidentiary ruling unless the ruling relates to one or more qualifying offences (whether or not it relates to any other offence).
- (4) The prosecution may not appeal in respect of two or more qualifying evidentiary rulings unless each ruling relates to one or more qualifying offences (whether or not it relates to any other offence).
- (5) If the prosecution intends to appeal under this section, it must before the opening of the case for the defence inform the court—
  - (a) of its intention to do so, and
  - (b) of the ruling or rulings to which the appeal relates.
- (6) In respect of the ruling, or each ruling, to which the appeal relates—
  - (a) the qualifying offence, or at least one of the qualifying offences, to which the ruling relates must be the subject of the appeal, and
  - (b) any other offence to which the ruling relates may, but need not, be the subject of the appeal.
- (7) The prosecution must, at the same time that it informs the court in accordance with subsection (5), inform the court of the offence or offences which are the subject of the appeal.
- (8) For the purposes of this section, the case for the defence opens when, after the conclusion of the prosecution evidence, the earliest of the following events occurs—
  - (a) evidence begins to be adduced by or on behalf of a defendant,
  - (b) it is indicated to the court that no evidence will be adduced by or on behalf of a defendant,
  - (c) a defendant’s case is opened, as permitted by section 2 of the Criminal Procedure Act 1865 (c. 18).
- (9) In this section—

“evidentiary ruling” means a ruling which relates to the admissibility or exclusion of any prosecution evidence,

“qualifying offence” means an offence described in Part 1 of Schedule 4.

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- (10) The Secretary of State may by order amend that Part by doing any one or more of the following—
- (a) adding a description of offence,
  - (b) removing a description of offence for the time being included,
  - (c) modifying a description of offence for the time being included.
- (11) Nothing in this section affects the right of the prosecution to appeal in respect of an evidentiary ruling under section 58.

### **63 Condition that evidentiary ruling significantly weakens prosecution case**

- (1) Leave to appeal may not be given in relation to an appeal under section 62 unless the judge or, as the case may be, the Court of Appeal is satisfied that the relevant condition is fulfilled.
- (2) In relation to an appeal in respect of a single qualifying evidentiary ruling, the relevant condition is that the ruling significantly weakens the prosecution's case in relation to the offence or offences which are the subject of the appeal.
- (3) In relation to an appeal in respect of two or more qualifying evidentiary rulings, the relevant condition is that the rulings taken together significantly weaken the prosecution's case in relation to the offence or offences which are the subject of the appeal.

### **64 Expedited and non-expedited appeals**

- (1) Where the prosecution informs the court in accordance with section 62(5), the judge must decide whether or not the appeal should be expedited.
- (2) If the judge decides that the appeal should be expedited, he may order an adjournment.
- (3) If the judge decides that the appeal should not be expedited, he may—
  - (a) order an adjournment, or
  - (b) discharge the jury (if one has been sworn).
- (4) If he decides that the appeal should be expedited, he or the Court of Appeal may subsequently reverse that decision and, if it is reversed, the judge may act as mentioned in subsection (3)(a) or (b).

### **65 Continuation of proceedings for offences not affected by ruling**

- (1) This section applies where the prosecution informs the court in accordance with section 62(5).
- (2) Proceedings may be continued in respect of any offence which is not the subject of the appeal.

### **66 Determination of appeal by Court of Appeal**

- (1) On an appeal under section 62, the Court of Appeal may confirm, reverse or vary any ruling to which the appeal relates.

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- (2) In addition, the Court of Appeal must, in respect of the offence or each offence which is the subject of the appeal, do any of the following—
  - (a) order that proceedings for that offence be resumed in the Crown Court,
  - (b) order that a fresh trial may take place in the Crown Court for that offence,
  - (c) order that the defendant in relation to that offence be acquitted of that offence.
- (3) But no order may be made under subsection (2)(c) in respect of an offence unless the prosecution has indicated that it does not intend to continue with the prosecution of that offence.

### *Miscellaneous and supplemental*

## **67 Reversal of rulings**

The Court of Appeal may not reverse a ruling on an appeal under this Part unless it is satisfied—

- (a) that the ruling was wrong in law,
- (b) that the ruling involved an error of law or principle, or
- (c) that the ruling was a ruling that it was not reasonable for the judge to have made.

### **Commencement Information**

**I42** S. 67 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 4](#) (subject to [art. 2\(2\), Sch. 2](#))

## **68 Appeals to the House of Lords**

- (1) In section 33(1) of the 1968 Act (right of appeal to House of Lords) after “this Act” there is inserted “ or Part 9 of the Criminal Justice Act 2003 ”.
- (2) In section 36 of the 1968 Act (bail on appeal by defendant) after “under” there is inserted “ Part 9 of the Criminal Justice Act 2003 or ”.
- (3) In this Part “the 1968 Act” means the Criminal Appeal Act 1968 (c. 19).

### **Commencement Information**

**I43** S. 68 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 4](#) (subject to [art. 2\(2\), Sch. 2](#))

## **69 Costs**

- (1) The Prosecution of Offences Act 1985 (c. 23) is amended as follows.
- (2) In section 16(4A) (defence costs on an appeal under section 9(11) of Criminal Justice Act 1987 may be met out of central funds) after “hearings” there is inserted “ or under Part 9 of the Criminal Justice Act 2003 ”.
- (3) In section 18 (award of costs against accused) after subsection (2) there is inserted—

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“(2A) Where the Court of Appeal reverses or varies a ruling on an appeal under Part 9 of the Criminal Justice Act 2003, it may make such order as to the costs to be paid by the accused, to such person as may be named in the order, as it considers just and reasonable.”

(4) In subsection (6) after “subsection (2)” there is inserted “ or (2A) ”.

#### Commencement Information

**I44** S. 69 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 4](#) (subject to [art. 2\(2\), Sch. 2](#))

### 70 Effect on time limits in relation to preliminary stages

(1) Section 22 of the Prosecution of Offences Act 1985 (c. 23) (power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings) is amended as follows.

(2) After subsection (6A) there is inserted—

“(6B) Any period during which proceedings for an offence are adjourned pending the determination of an appeal under Part 9 of the Criminal Justice Act 2003 shall be disregarded, so far as the offence is concerned, for the purposes of the overall time limit and the custody time limit which applies to the stage which the proceedings have reached when they are adjourned.”

#### Commencement Information

**I45** S. 70 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 4](#) (subject to [art. 2\(2\), Sch. 2](#))

### 71 Restrictions on reporting

(1) Except as provided by this section no publication shall include a report of—

- (a) anything done under section 58, 59, 62, 63 or 64,
- (b) an appeal under this Part,
- (c) an appeal under Part 2 of the 1968 Act in relation to an appeal under this Part, or
- (d) an application for leave to appeal in relation to an appeal mentioned in paragraph (b) or (c).

(2) The judge may order that subsection (1) is not to apply, or is not to apply to a specified extent, to a report of—

- (a) anything done under section 58, 59, 62, 63 or 64, or
- (b) an application to the judge for leave to appeal to the Court of Appeal under this Part.

(3) The Court of Appeal may order that subsection (1) is not to apply, or is not to apply to a specified extent, to a report of—

- (a) an appeal to the Court of Appeal under this Part,



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- (b) an application to that Court for leave to appeal to it under this Part, or
  - (c) an application to that Court for leave to appeal to the [<sup>F115</sup>Supreme Court] under Part 2 of the 1968 Act.
- (4) The [<sup>F116</sup>Supreme Court] may order that subsection (1) is not to apply, or is not to apply to a specified extent, to a report of—
- (a) an appeal to [<sup>F117</sup>the Supreme Court] under Part 2 of the 1968 Act, or
  - (b) an application to [<sup>F117</sup>the Supreme Court] for leave to appeal to it under Part 2 of that Act.
- (5) Where there is only one defendant and he objects to the making of an order under subsection (2), (3) or (4)—
- (a) the judge, the Court of Appeal or the [<sup>F118</sup>Supreme Court is] to make the order if (and only if) satisfied, after [<sup>F119</sup>considering] the representations of the defendant, that it is in the interests of justice to do so, and
  - (b) the order (if made) is not to apply to the extent that a report deals with any such objection or representations.
- (6) Where there are two or more defendants and one or more of them object to the making of an order under subsection (2), (3) or (4)—
- (a) the judge, the Court of Appeal or the [<sup>F118</sup>Supreme Court is] to make the order if (and only if) satisfied, after [<sup>F120</sup>considering] the representations of each of the defendants, that it is in the interests of justice to do so, and
  - (b) the order (if made) is not to apply to the extent that a report deals with any such objection or representations.
- (7) Subsection (1) does not apply to the inclusion in a publication of a report of—
- (a) anything done under section 58, 59, 62, 63 or 64,
  - (b) an appeal under this Part,
  - (c) an appeal under Part 2 of the 1968 Act in relation to an appeal under this Part, or
  - (d) an application for leave to appeal in relation to an appeal mentioned in paragraph (b) or (c),
- at the conclusion of the trial of the defendant or the last of the defendants to be tried.
- (8) Subsection (1) does not apply to a report which contains only one or more of the following matters—
- (a) the identity of the court and the name of the judge,
  - (b) the names, ages, home addresses and occupations of the defendant or defendants and witnesses,
  - (c) the offence or offences, or a summary of them, with which the defendant or defendants are charged,
  - (d) the names of counsel and solicitors in the proceedings,
  - (e) where the proceedings are adjourned, the date and place to which they are adjourned,
  - (f) any arrangements as to bail,
  - [<sup>F121</sup>(g) whether, for the purposes of the proceedings, representation was provided to the defendant or any of the defendants under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.]

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- (9) The addresses that may be included in a report by virtue of subsection (8) are addresses—
- (a) at any relevant time, and
  - (b) at the time of their inclusion in the publication.
- (10) Nothing in this section affects any prohibition or restriction by virtue of any other enactment on the inclusion of any matter in a publication.
- (11) In this section—
- “programme service” has the same meaning as in the Broadcasting Act 1990 (c. 42),
- “publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme is to be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings,
- “relevant time” means a time when events giving rise to the charges to which the proceedings relate are alleged to have occurred,
- “relevant programme” means a programme included in a programme service.

#### Textual Amendments

- F115** Words in s. 71(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(3\)\(a\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F116** Words in s. 71(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(3\)\(b\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F117** Words in s. 71(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(3\)\(b\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F118** Words in s. 71(5)(6) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(3\)\(c\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F119** Word in s. 71(5)(a) substituted (28.6.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), [ss. 15\(7\)](#), 51(3)
- F120** Word in s. 71(6)(a) substituted (28.6.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), [ss. 15\(7\)](#), 51(3)
- F121** S. 71(8)(g) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 65](#); S.I. 2013/453, [art. 3\(h\)](#) (with savings and transitional provisions in S.I. 2013/534, [art. 6](#))

#### Commencement Information

- I46** S. 71 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 72 Offences in connection with reporting

- (1) This section applies if a publication includes a report in contravention of section 71.
- (2) Where the publication is a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical is guilty of an offence.
- (3) Where the publication is a relevant programme—

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- (a) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included, and
  - (b) any person having functions in relation to the programme corresponding to those of an editor of a newspaper,
- is guilty of an offence.
- (4) In the case of any other publication, any person publishing it is guilty of an offence.
- (5) If an offence under this section committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of, or
  - (b) to be attributable to any neglect on the part of,
- an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In subsection (5), “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (7) If the affairs of a body corporate are managed by its members, “director” in subsection (6) means a member of that body.
- (8) Where an offence under this section is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) Proceedings for an offence under this section may not be instituted—
- (a) in England and Wales otherwise than by or with the consent of the Attorney General, or
  - (b) in Northern Ireland otherwise than by or with the consent of—
    - (i) before the relevant date, the Attorney General for Northern Ireland, or
    - (ii) on or after the relevant date, the Director of Public Prosecutions for Northern Ireland.
- (11) In subsection (10) “the relevant date” means the date on which section 22(1) of the Justice (Northern Ireland) Act 2002 (c. 26) comes into force.

#### **Commencement Information**

**I47** S. 72 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### **73 Rules of court**

- (1) Rules of court may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this Part.
- (2) Without limiting subsection (1), rules of court may in particular make provision—
- (a) for time limits which are to apply in connection with any provisions of this Part,
  - (b) as to procedures to be applied in connection with this Part,

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- (c) enabling a single judge of the Court of Appeal to give leave to appeal under this Part or to exercise the power of the Court of Appeal under section 58(12).
- (3) Nothing in this section is to be taken as affecting the generality of any enactment conferring powers to make rules of court.

## 74 Interpretation of Part 9

- (1) In this Part—
  - “programme service” has the meaning given by section 71(11),
  - “publication” has the meaning given by section 71(11),
  - “qualifying evidentiary ruling” is to be construed in accordance with section 62(2),
  - “the relevant condition” is to be construed in accordance with section 63(2) and (3),
  - “relevant programme” has the meaning given by section 71(11),
  - “ruling” includes a decision, determination, direction, finding, notice, order, refusal, rejection or requirement,
  - “the 1968 Act” means the Criminal Appeal Act 1968 (c. 19).
- (2) Any reference in this Part (other than section 73(2)(c)) to a judge is a reference to a judge of the Crown Court.
- (3) There is to be no right of appeal under this Part in respect of a ruling in relation to which the prosecution has previously informed the court of its intention to appeal under either section 58(4) or 62(5).
- (4) Where a ruling relates to two or more offences but not all of those offences are the subject of an appeal under this Part, nothing in this Part is to be regarded as affecting the ruling so far as it relates to any offence which is not the subject of the appeal.
- (5) Where two or more defendants are charged jointly with the same offence, the provisions of this Part are to apply as if the offence, so far as relating to each defendant, were a separate offence (so that, for example, any reference in this Part to a ruling which relates to one or more offences includes a ruling which relates to one or more of those separate offences).
- (6) Subject to rules of court made under section 53(1) of the Supreme Court Act 1981 (c. 54) (power by rules to distribute business of Court of Appeal between its civil and criminal divisions)—
  - (a) the jurisdiction of the Court of Appeal under this Part is to be exercised by the criminal division of that court, and
  - (b) references in this Part to the Court of Appeal are to be construed as references to that division.
- [<sup>F122</sup>(7) In its application to a trial on indictment in respect of which an order under section 17(2) of the Domestic Violence, Crime and Victims Act 2004 has been made, this Part is to have effect with such modifications as the Secretary of State may by order specify.]

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#### Textual Amendments

**F122** S. 74(7) inserted (8.1.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, [Sch. 10 para. 62](#); [S.I. 2006/3423](#), [art. 2](#) (subject to [art. 3](#))

#### Commencement Information

**I48** S. 74 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 4](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## PART 10

### RETRIAL FOR SERIOUS OFFENCES

#### *Cases that may be retried*

#### 75 Cases that may be retried

- (1) This Part applies where a person has been acquitted of a qualifying offence in proceedings—
  - (a) on indictment in England and Wales,
  - (b) on appeal against a conviction, verdict or finding in proceedings on indictment in England and Wales, or
  - (c) on appeal from a decision on such an appeal.
- (2) A person acquitted of an offence in proceedings mentioned in subsection (1) is treated for the purposes of that subsection as also acquitted of any qualifying offence of which he could have been convicted in the proceedings because of the first-mentioned offence being charged in the indictment, except an offence—
  - (a) of which he has been convicted,
  - (b) of which he has been found not guilty by reason of insanity, or
  - (c) in respect of which, in proceedings where he has been found to be under a disability (as defined by section 4 of the Criminal Procedure (Insanity) Act 1964 (c. 84)), a finding has been made that he did the act or made the omission charged against him.
- (3) References in subsections (1) and (2) to a qualifying offence do not include references to an offence which, at the time of the acquittal, was the subject of an order under section 77(1) or (3).
- (4) This Part also applies where a person has been acquitted, in proceedings elsewhere than in the United Kingdom, of an offence under the law of the place where the proceedings were held, if the commission of the offence as alleged would have amounted to or included the commission (in the United Kingdom or elsewhere) of a qualifying offence.
- (5) Conduct punishable under the law in force elsewhere than in the United Kingdom is an offence under that law for the purposes of subsection (4), however it is described in that law.
- (6) This Part applies whether the acquittal was before or after the passing of this Act.

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(7) References in this Part to acquittal are to acquittal in circumstances within subsection (1) or (4).

(8) In this Part “qualifying offence” means an offence listed in Part 1 of Schedule 5.

#### Commencement Information

**I49** S. 75 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (subject to art. 2(2), Sch. 2)

### *Application for retrial*

## 76 Application to Court of Appeal

- (1) A prosecutor may apply to the Court of Appeal for an order—
  - (a) quashing a person’s acquittal in proceedings within section 75(1), and
  - (b) ordering him to be retried for the qualifying offence.
- (2) A prosecutor may apply to the Court of Appeal, in the case of a person acquitted elsewhere than in the United Kingdom, for—
  - (a) a determination whether the acquittal is a bar to the person being tried in England and Wales for the qualifying offence, and
  - (b) if it is, an order that the acquittal is not to be a bar.
- (3) A prosecutor may make an application under subsection (1) or (2) only with the written consent of the Director of Public Prosecutions.
- (4) The Director of Public Prosecutions may give his consent only if satisfied that—
  - (a) there is evidence as respects which the requirements of section 78 appear to be met,
  - (b) it is in the public interest for the application to proceed, and
  - (c) any trial pursuant to an order on the application would not be inconsistent with obligations of the United Kingdom under [<sup>F123</sup>Article 31 or 34 of the Treaty on European Union (as it had effect before 1 December 2009) or Article 82, 83 or 85 of the Treaty on the Functioning of the European Union] relating to the principle of *ne bis in idem*.
- (5) Not more than one application may be made under subsection (1) or (2) in relation to an acquittal.

#### Textual Amendments

**F123** Words in s. 76(4)(c) substituted (1.8.2012) by [The Treaty of Lisbon \(Changes in Terminology or Numbering\) Order 2012 \(S.I. 2012/1809\)](#), art. 2(1), **Sch. Pt. 1** (with art. 2(2))

#### Commencement Information

**I50** S. 76 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (subject to art. 2(2), Sch. 2)

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## 77 Determination by Court of Appeal

- (1) On an application under section 76(1), the Court of Appeal—
  - (a) if satisfied that the requirements of sections 78 and 79 are met, must make the order applied for;
  - (b) otherwise, must dismiss the application.
- (2) Subsections (3) and (4) apply to an application under section 76(2).
- (3) Where the Court of Appeal determines that the acquittal is a bar to the person being tried for the qualifying offence, the court—
  - (a) if satisfied that the requirements of sections 78 and 79 are met, must make the order applied for;
  - (b) otherwise, must make a declaration to the effect that the acquittal is a bar to the person being tried for the offence.
- (4) Where the Court of Appeal determines that the acquittal is not a bar to the person being tried for the qualifying offence, it must make a declaration to that effect.

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### Commencement Information

**I51** S. 77 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 5](#) (subject to [art. 2\(2\), Sch. 2](#))

## 78 New and compelling evidence

- (1) The requirements of this section are met if there is new and compelling evidence against the acquitted person in relation to the qualifying offence.
- (2) Evidence is new if it was not adduced in the proceedings in which the person was acquitted (nor, if those were appeal proceedings, in earlier proceedings to which the appeal related).
- (3) Evidence is compelling if—
  - (a) it is reliable,
  - (b) it is substantial, and
  - (c) in the context of the outstanding issues, it appears highly probative of the case against the acquitted person.
- (4) The outstanding issues are the issues in dispute in the proceedings in which the person was acquitted and, if those were appeal proceedings, any other issues remaining in dispute from earlier proceedings to which the appeal related.
- (5) For the purposes of this section, it is irrelevant whether any evidence would have been admissible in earlier proceedings against the acquitted person.

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### Commencement Information

**I52** S. 78 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 5](#) (subject to [art. 2\(2\), Sch. 2](#))

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## 79 Interests of justice

- (1) The requirements of this section are met if in all the circumstances it is in the interests of justice for the court to make the order under section 77.
- (2) That question is to be determined having regard in particular to—
  - (a) whether existing circumstances make a fair trial unlikely;
  - (b) for the purposes of that question and otherwise, the length of time since the qualifying offence was allegedly committed;
  - (c) whether it is likely that the new evidence would have been adduced in the earlier proceedings against the acquitted person but for a failure by an officer or by a prosecutor to act with due diligence or expedition;
  - (d) whether, since those proceedings or, if later, since the commencement of this Part, any officer or prosecutor has failed to act with due diligence or expedition.
- (3) In subsection (2) references to an officer or prosecutor include references to a person charged with corresponding duties under the law in force elsewhere than in England and Wales.
- (4) Where the earlier prosecution was conducted by a person other than a prosecutor, subsection (2)(c) applies in relation to that person as well as in relation to a prosecutor.

### Commencement Information

**I53** S. 79 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 5](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 80 Procedure and evidence

- (1) A prosecutor who wishes to make an application under section 76(1) or (2) must give notice of the application to the Court of Appeal.
- (2) Within two days beginning with the day on which any such notice is given, notice of the application must be served by the prosecutor on the person to whom the application relates, charging him with the offence to which it relates or, if he has been charged with it in accordance with section 87(4), stating that he has been so charged.
- (3) Subsection (2) applies whether the person to whom the application relates is in the United Kingdom or elsewhere, but the Court of Appeal may, on application by the prosecutor, extend the time for service under that subsection if it considers it necessary to do so because of that person's absence from the United Kingdom.
- (4) The Court of Appeal must consider the application at a hearing.
- (5) The person to whom the application relates—
  - (a) is entitled to be present at the hearing, although he may be in custody, unless he is in custody elsewhere than in England and Wales or Northern Ireland, and
  - (b) is entitled to be represented at the hearing, whether he is present or not.
- (6) For the purposes of the application, the Court of Appeal may, if it thinks it necessary or expedient in the interests of justice—



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- (a) order the production of any document, exhibit or other thing, the production of which appears to the court to be necessary for the determination of the application, and
  - (b) order any witness who would be a compellable witness in proceedings pursuant to an order or declaration made on the application to attend for examination and be examined before the court.
- (7) The Court of Appeal may at one hearing consider more than one application (whether or not relating to the same person), but only if the offences concerned could be tried on the same indictment.

#### Commencement Information

**I54** S. 80 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 5](#) (subject to [art. 2\(2\), Sch. 2](#))

## 81 Appeals

- (1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.
- (2) In section 33 (right of appeal to <sup>F124</sup>Supreme Court]), after subsection (1A) there is inserted—

“(1B) An appeal lies to the <sup>F124</sup>Supreme Court] , at the instance of the acquitted person or the prosecutor, from any decision of the Court of Appeal on an application under section 76(1) or (2) of the Criminal Justice Act 2003 (retrial for serious offences).”
- (3) At the end of that section there is inserted—

“(4) In relation to an appeal under subsection (1B), references in this Part to a defendant are references to the acquitted person.”
- (4) In section 34(2) (extension of time for leave to appeal), after “defendant” there is inserted “ or, in the case of an appeal under section 33(1B), by the prosecutor ”.
- (5) In section 38 (presence of defendant at hearing), for “has been convicted of an offence and” substitute “ has been convicted of an offence, or in whose case an order under section 77 of the Criminal Justice Act 2003 or a declaration under section 77(4) of that Act has been made, and who ”.

#### Textual Amendments

**F124** Words in s. 81(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148, Sch. 9 para. 82\(4\); S.I. 2009/1604, art. 2\(d\)](#)

#### Commencement Information

**I55** S. 81 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 5](#) (subject to [art. 2\(2\), Sch. 2](#))

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## **82 Restrictions on publication in the interests of justice**

- (1) Where it appears to the Court of Appeal that the inclusion of any matter in a publication would give rise to a substantial risk of prejudice to the administration of justice in a retrial, the court may order that the matter is not to be included in any publication while the order has effect.
- (2) In subsection (1) “retrial” means the trial of an acquitted person for a qualifying offence pursuant to any order made or that may be made under section 77.
- (3) The court may make an order under this section only if it appears to it necessary in the interests of justice to do so.
- (4) An order under this section may apply to a matter which has been included in a publication published before the order takes effect, but such an order—
  - (a) applies only to the later inclusion of the matter in a publication (whether directly or by inclusion of the earlier publication), and
  - (b) does not otherwise affect the earlier publication.
- (5) After notice of an application has been given under section 80(1) relating to the acquitted person and the qualifying offence, the court may make an order under this section only—
  - (a) of its own motion, or
  - (b) on the application of the Director of Public Prosecutions.
- (6) Before such notice has been given, an order under this section—
  - (a) may be made only on the application of the Director of Public Prosecutions, and
  - (b) may not be made unless, since the acquittal concerned, an investigation of the commission by the acquitted person of the qualifying offence has been commenced by officers.
- (7) The court may at any time, of its own motion or on an application made by the Director of Public Prosecutions or the acquitted person, vary or revoke an order under this section.
- (8) Any order made under this section before notice of an application has been given under section 80(1) relating to the acquitted person and the qualifying offence must specify the time when it ceases to have effect.
- (9) An order under this section which is made or has effect after such notice has been given ceases to have effect, unless it specifies an earlier time—
  - (a) when there is no longer any step that could be taken which would lead to the acquitted person being tried pursuant to an order made on the application, or
  - (b) if he is tried pursuant to such an order, at the conclusion of the trial.
- (10) Nothing in this section affects any prohibition or restriction by virtue of any other enactment on the inclusion of any matter in a publication or any power, under an enactment or otherwise, to impose such a prohibition or restriction.
- (11) In this section—
  - “programme service” has the same meaning as in the Broadcasting Act 1990 (c. 42),
  - “publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or

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any section of the public (and for this purpose every relevant programme is to be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings,

“relevant programme” means a programme included in a programme service.

#### Commencement Information

**I56** S. 82 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (subject to art. 2(2), Sch. 2)

### 83 Offences in connection with publication restrictions

- (1) This section applies if—
  - (a) an order under section 82 is made, whether in England and Wales or Northern Ireland, and
  - (b) while the order has effect, any matter is included in a publication, in any part of the United Kingdom, in contravention of the order.
- (2) Where the publication is a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical is guilty of an offence.
- (3) Where the publication is a relevant programme—
  - (a) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included, and
  - (b) any person having functions in relation to the programme corresponding to those of an editor of a newspaper,is guilty of an offence.
- (4) In the case of any other publication, any person publishing it is guilty of an offence.
- (5) If an offence under this section committed by a body corporate is proved—
  - (a) to have been committed with the consent or connivance of, or
  - (b) to be attributable to any neglect on the part of,an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (6) In subsection (5), “officer” means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (7) If the affairs of a body corporate are managed by its members, “director” in subsection (6) means a member of that body.
- (8) Where an offence under this section is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) Proceedings for an offence under this section may not be instituted—

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- (a) in England and Wales otherwise than by or with the consent of the Attorney General, or
  - (b) in Northern Ireland otherwise than by or with the consent of—
    - (i) before the relevant date, the Attorney General for Northern Ireland, or
    - (ii) on or after the relevant date, the Director of Public Prosecutions for Northern Ireland.
- (11) In subsection (10) “the relevant date” means the date on which section 22(1) of the Justice (Northern Ireland) Act 2002 (c. 26) comes into force.

#### **Commencement Information**

**I57** S. 83 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 5](#) (subject to [art. 2\(2\), Sch. 2](#))

### *Retrial*

#### **84 Retrial**

- (1) Where a person—
  - (a) is tried pursuant to an order under section 77(1), or
  - (b) is tried on indictment pursuant to an order under section 77(3),
 the trial must be on an indictment preferred by direction of the Court of Appeal.
- (2) After the end of 2 months after the date of the order, the person may not be arraigned on an indictment preferred in pursuance of such a direction unless the Court of Appeal gives leave.
- (3) The Court of Appeal must not give leave unless satisfied that—
  - (a) the prosecutor has acted with due expedition, and
  - (b) there is a good and sufficient cause for trial despite the lapse of time since the order under section 77.
- (4) Where the person may not be arraigned without leave, he may apply to the Court of Appeal to set aside the order and—
  - (a) for any direction required for restoring an earlier judgment and verdict of acquittal of the qualifying offence, or
  - (b) in the case of a person acquitted elsewhere than in the United Kingdom, for a declaration to the effect that the acquittal is a bar to his being tried for the qualifying offence.
- (5) An indictment under subsection (1) may relate to more than one offence, or more than one person, and may relate to an offence which, or a person who, is not the subject of an order or declaration under section 77.
- (6) Evidence given at a trial pursuant to an order under section 77(1) or (3) must be given orally if it was given orally at the original trial, unless—
  - (a) all the parties to the trial agree otherwise,
  - (b) section 116 applies, or
  - (c) the witness is unavailable to give evidence, otherwise than as mentioned in subsection (2) of that section, and section 114(1)(d) applies.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
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- (7) At a trial pursuant to an order under section 77(1), paragraph 5 of Schedule 3 to the Crime and Disorder Act 1998 (c. 37) (use of depositions) does not apply to a deposition read as evidence at the original trial.

#### Commencement Information

**I58** S. 84 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (subject to art. 2(2), Sch. 2)

### Investigations

#### 85 Authorisation of investigations

- (1) This section applies to the investigation of the commission of a qualifying offence by a person—
- (a) acquitted in proceedings within section 75(1) of the qualifying offence, or
  - (b) acquitted elsewhere than in the United Kingdom of an offence the commission of which as alleged would have amounted to or included the commission (in the United Kingdom or elsewhere) of the qualifying offence.
- (2) Subject to section 86, an officer may not do anything within subsection (3) for the purposes of such an investigation unless the Director of Public Prosecutions—
- (a) has certified that in his opinion the acquittal would not be a bar to the trial of the acquitted person in England and Wales for the qualifying offence, or
  - (b) has given his written consent to the investigation (whether before or after the start of the investigation).
- (3) The officer may not, either with or without the consent of the acquitted person—
- (a) arrest or question him,
  - (b) search him or premises owned or occupied by him,
  - (c) search a vehicle owned by him or anything in or on such a vehicle,
  - (d) seize anything in his possession, or
  - (e) take his fingerprints or take a sample from him.
- (4) The Director of Public Prosecutions may only give his consent on a written application, and such an application may be made only by an officer who—
- (a) if he is an officer of the metropolitan police force or the City of London police force, is of the rank of commander or above, or
  - (b) in any other case, is of the rank of assistant chief constable or above.
- (5) An officer may make an application under subsection (4) only if—
- (a) he is satisfied that new evidence has been obtained which would be relevant to an application under section 76(1) or (2) in respect of the qualifying offence to which the investigation relates, or
  - (b) he has reasonable grounds for believing that such new evidence is likely to be obtained as a result of the investigation.
- (6) The Director of Public Prosecutions may not give his consent unless satisfied that—
- (a) there is, or there is likely as a result of the investigation to be, sufficient new evidence to warrant the conduct of the investigation, and

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(b) it is in the public interest for the investigation to proceed.

(7) In giving his consent, the Director of Public Prosecutions may recommend that the investigation be conducted otherwise than by officers of a specified police force or specified team of customs and excise officers.

#### Commencement Information

**I59** S. 85 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (subject to art. 2(2), Sch. 2)

## 86 Urgent investigative steps

(1) Section 85 does not prevent an officer from taking any action for the purposes of an investigation if—

- (a) the action is necessary as a matter of urgency to prevent the investigation being substantially and irrevocably prejudiced,
- (b) the requirements of subsection (2) are met, and
- (c) either—
  - (i) the action is authorised under subsection (3), or
  - (ii) the requirements of subsection (5) are met.

(2) The requirements of this subsection are met if—

- (a) there has been no undue delay in applying for consent under section 85(2),
- (b) that consent has not been refused, and
- (c) taking into account the urgency of the situation, it is not reasonably practicable to obtain that consent before taking the action.

(3) An officer of the rank of superintendent or above may authorise the action if—

- (a) he is satisfied that new evidence has been obtained which would be relevant to an application under section 76(1) or (2) in respect of the qualifying offence to which the investigation relates, or
- (b) he has reasonable grounds for believing that such new evidence is likely to be obtained as a result of the investigation.

(4) An authorisation under subsection (3) must—

- (a) if reasonably practicable, be given in writing;
- (b) otherwise, be recorded in writing by the officer giving it as soon as is reasonably practicable.

(5) The requirements of this subsection are met if—

- (a) there has been no undue delay in applying for authorisation under subsection (3),
- (b) that authorisation has not been refused, and
- (c) taking into account the urgency of the situation, it is not reasonably practicable to obtain that authorisation before taking the action.

(6) Where the requirements of subsection (5) are met, the action is nevertheless to be treated as having been unlawful unless, as soon as reasonably practicable after the action is taken, an officer of the rank of superintendent or above certifies in writing that he is satisfied that, when the action was taken—

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- (a) new evidence had been obtained which would be relevant to an application under section 76(1) or (2) in respect of the qualifying offence to which the investigation relates, or
- (b) the officer who took the action had reasonable grounds for believing that such new evidence was likely to be obtained as a result of the investigation.

#### Commencement Information

**I60** S. 86 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (subject to art. 2(2), Sch. 2)

### [<sup>F125</sup>86A Application of sections 85 and 86 to investigations by the Police Ombudsman

- (1) Sections 85 and 86 apply in relation to an investigation by an officer of the Police Ombudsman for Northern Ireland with the following modifications.
- (2) References in sections 85(2) and (3) and 86(1) to an officer shall be read as references to an officer of the Ombudsman.
- (3) Section 85(4) has effect as if for the words from “an officer who” to the end there were substituted the Ombudsman.
- (4) Section 85(5) has effect as if for “An officer” there were substituted The Ombudsman.
- (4) Section 85(7) does not apply.
- (6) Section 86(3) has effect as if for “An officer of the rank of superintendent or above” there were substituted A senior officer of the Ombudsman.
- (7) Section 86(6) has effect as if for “an officer of the rank of superintendent or above” there were substituted a senior officer of the Ombudsman.
- (8) References to a senior officer of the Ombudsman are to an officer of the rank of senior investigating officer or above.]

#### Textual Amendments

**F125** S. 86A inserted (N.I.) (21.4.2007) by The Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)), art. 11(1)

### *Arrest, custody and bail*

## 87 Arrest and charge

- (1) Where section 85 applies to the investigation of the commission of an offence by any person and no certification has been given under subsection (2) of that section—
  - (a) a justice of the peace may issue a warrant to arrest that person for that offence only if satisfied by written information that new evidence has been obtained which would be relevant to an application under section 76(1) or (2) in respect of the commission by that person of that offence, and
  - (b) that person may not be arrested for that offence except under a warrant so issued.

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- (2) Subsection (1) does not affect section 89(3)(b) or 91(3), or any other power to arrest a person, or to issue a warrant for the arrest of a person, otherwise than for an offence.
- (3) Part 4 of the 1984 Act (detention) applies as follows where a person—
- (a) is arrested for an offence under a warrant issued in accordance with subsection (1)(a), or
  - (b) having been so arrested, is subsequently treated under section 34(7) of that Act as arrested for that offence.
- (4) For the purposes of that Part there is sufficient evidence to charge the person with the offence for which he has been arrested if, and only if, an officer of the rank of superintendent or above (who has not been directly involved in the investigation) is of the opinion that the evidence available or known to him is sufficient for the case to be referred to a prosecutor to consider whether consent should be sought for an application in respect of that person under section 76.
- (5) For the purposes of that Part it is the duty of the custody officer at each police station where the person is detained to make available or known to an officer at that police station of the rank of superintendent or above any evidence which it appears to him may be relevant to an application under section 76(1) or (2) in respect of the offence for which the person has been arrested, and to do so as soon as practicable—
- (a) after the evidence becomes available or known to him, or
  - (b) if later, after he forms that view.
- (6) Section 37 of that Act (including any provision of that section as applied by section 40(8) of that Act) has effect subject to the following modifications—
- (a) in subsection (1)—
    - (i) for “determine whether he has before him” there is substituted “request an officer of the rank of superintendent or above (who has not been directly involved in the investigation) to determine, in accordance with section 87(4) of the Criminal Justice Act 2003, whether there is ”;
    - (ii) for “him to do so” there is substituted “ that determination to be made ”;
  - (b) in subsection (2)—
    - (i) for the words from “custody officer determines” to “before him” there is substituted “ officer determines that there is not such sufficient evidence ”;
    - (ii) the word “custody” is omitted from the second place where it occurs;
  - (c) in subsection (3)—
    - (i) the word “custody” is omitted;
    - (ii) after “may” there is inserted “ direct the custody officer to ”;
  - (d) in subsection (7) for the words from “the custody officer” to the end of that subsection there is substituted “ an officer of the rank of superintendent or above (who has not been directly involved in the investigation) determines, in accordance with section 87(4) of the Criminal Justice Act 2003, that there is sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested shall be charged. ”;
  - (e) subsections (7A), (7B) and (8) do not apply;
  - (f) after subsection (10) there is inserted—



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“(10A) The officer who is requested by the custody officer to make a determination under subsection (1) above shall make that determination as soon as practicable after the request is made.”.

- (7) Section 40 of that Act has effect as if in subsections (8) and (9) of that section after “(6)” there were inserted “ and (10A) ”.
- (8) Section 42 of that Act has effect as if in subsection (1) of that section for the words from “who” to “detained” there were substituted “ (who has not been directly involved in the investigation) ”.

#### Commencement Information

**I61** S. 87 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 5** (subject to [art. 2\(2\)](#), **Sch. 2**)

## 88 Bail and custody before application

- (1) In relation to a person charged in accordance with section 87(4)—
- section 38 of the 1984 Act (including any provision of that section as applied by section 40(10) of that Act) has effect as if, in subsection (1), for “either on bail or without bail” there were substituted “ on bail ”,
  - section 47(3) of that Act does not apply and references in section 38 of that Act to bail are references to bail subject to a duty to appear before the Crown Court at such place as the custody officer may appoint and at such time, not later than 24 hours after the person is released, as that officer may appoint, and
  - section 43B of the Magistrates' Courts Act 1980 (c. 43) does not apply.
- (2) Where such a person is, after being charged—
- kept in police detention, or
  - detained by a local authority in pursuance of arrangements made under section 38(6) of the 1984 Act,
- he must be brought before the Crown Court as soon as practicable and, in any event, not more than 24 hours after he is charged, and section 46 of the 1984 Act does not apply.
- (3) For the purpose of calculating the period referred to in subsection (1) or (2), the following are to be disregarded—
- [<sup>F126</sup>(za) Saturday,]
- Sunday,
  - Christmas Day,
  - Good Friday, and
  - any day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in the part of the United Kingdom where the person is to appear before the Crown Court as mentioned in subsection (1) or, where subsection (2) applies, is for the time being detained.
- (4) Where a person appears or is brought before the Crown Court in accordance with subsection (1) or (2), the Crown Court may either—

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- (a) grant bail for the person to appear, if notice of an application is served on him under section 80(2), before the Court of Appeal at the hearing of that application, or
  - (b) remand the person in custody to be brought before the Crown Court under section 89(2).
- (5) If the Crown Court grants bail under subsection (4), it may revoke bail and remand the person in custody as referred to in subsection (4)(b).
- (6) In subsection (7) the “relevant period”, in relation to a person granted bail or remanded in custody under subsection (4), means—
- (a) the period of 42 days beginning with the day on which he is granted bail or remanded in custody under that subsection, or
  - (b) that period as extended or further extended under subsection (8).
- (7) If at the end of the relevant period no notice of an application under section 76(1) or (2) in relation to the person has been given under section 80(1), the person—
- (a) if on bail subject to a duty to appear as mentioned in subsection (4)(a), ceases to be subject to that duty and to any conditions of that bail, and
  - (b) if in custody on remand under subsection (4)(b) or (5), must be released immediately without bail.
- (8) The Crown Court may, on the application of a prosecutor, extend or further extend the period mentioned in subsection (6)(a) until a specified date, but only if satisfied that—
- (a) the need for the extension is due to some good and sufficient cause, and
  - (b) the prosecutor has acted with all due diligence and expedition.

#### Textual Amendments

**F126** S. 88(3)(za) inserted (15.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153(7), [Sch. 26 para. 63](#); [S.I. 2008/1586](#), [art. 2\(2\)](#)

#### Commencement Information

**I62** S. 88 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 5](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 89 Bail and custody before hearing

- (1) This section applies where notice of an application is given under section 80(1).
- (2) If the person to whom the application relates is in custody under section 88(4)(b) or (5), he must be brought before the Crown Court as soon as practicable and, in any event, within 48 hours after the notice is given.
- (3) If that person is not in custody under section 88(4)(b) or (5), the Crown Court may, on application by the prosecutor—
- (a) issue a summons requiring the person to appear before the Court of Appeal at the hearing of the application, or
  - (b) issue a warrant for the person’s arrest,
- and a warrant under paragraph (b) may be issued at any time even though a summons has previously been issued.

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- (4) Where a summons is issued under subsection (3)(a), the time and place at which the person must appear may be specified either—
  - (a) in the summons, or
  - (b) in a subsequent direction of the Crown Court.
- (5) The time or place specified may be varied from time to time by a direction of the Crown Court.
- (6) A person arrested under a warrant under subsection (3)(b) must be brought before the Crown Court as soon as practicable and in any event within 48 hours after his arrest, and section 81(5) of the Supreme Court Act 1981 (c. 54) does not apply.
- (7) If a person is brought before the Crown Court under subsection (2) or (6) the court must either—
  - (a) remand him in custody to be brought before the Court of Appeal at the hearing of the application, or
  - (b) grant bail for him to appear before the Court of Appeal at the hearing.
- (8) If bail is granted under subsection (7)(b), the Crown Court may revoke the bail and remand the person in custody as referred to in subsection (7)(a).
- (9) For the purpose of calculating the period referred to in subsection (2) or (6), the following are to be disregarded—
  - [<sup>F127</sup>(za) Saturday,]
  - (a) Sunday,
  - (b) Christmas Day,
  - (c) Good Friday, and
  - (d) any day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in the part of the United Kingdom where the person is for the time being detained.

#### Textual Amendments

**F127** S. 89(9)(za) inserted (15.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153(7), [Sch. 26 para. 63](#); [S.I. 2008/1586](#), [art. 2\(2\)](#)

#### Commencement Information

**I63** S. 89 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 5](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 90 Bail and custody during and after hearing

- (1) The Court of Appeal may, at any adjournment of the hearing of an application under section 76(1) or (2)—
  - (a) remand the person to whom the application relates on bail, or
  - (b) remand him in custody.
- (2) At a hearing at which the Court of Appeal—
  - (a) makes an order under section 77,
  - (b) makes a declaration under subsection (4) of that section, or

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- (c) dismisses the application or makes a declaration under subsection (3) of that section, if it also gives the prosecutor leave to appeal against its decision or the prosecutor gives notice that he intends to apply for such leave, the court may make such order as it sees fit for the custody or bail of the acquitted person pending trial pursuant to the order or declaration, or pending determination of the appeal.
- (3) For the purpose of subsection (2), the determination of an appeal is pending—
- (a) until any application for leave to appeal is disposed of, or the time within which it must be made expires;
  - (b) if leave to appeal is granted, until the appeal is disposed of.
- (4) Section 4 of the Bail Act 1976 (c. 63) applies in relation to the grant of bail under this section as if in subsection (2) the reference to the Crown Court included a reference to the Court of Appeal.
- (5) The court may at any time, as it sees fit—
- (a) revoke bail granted under this section and remand the person in custody, or
  - (b) vary an order under subsection (2).

#### Commencement Information

**I64** S. 90 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 5](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 91 Revocation of bail

- (1) Where—
- (a) a court revokes a person’s bail under this Part, and
  - (b) that person is not before the court when his bail is revoked,
- the court must order him to surrender himself forthwith to the custody of the court.
- (2) Where a person surrenders himself into the custody of the court in compliance with an order under subsection (1), the court must remand him in custody.
- (3) A person who has been ordered to surrender to custody under subsection (1) may be arrested without a warrant by an officer if he fails without reasonable cause to surrender to custody in accordance with the order.
- (4) A person arrested under subsection (3) must be brought as soon as practicable, and, in any event, not more than 24 hours after he is arrested, before the court and the court must remand him in custody.
- (5) For the purpose of calculating the period referred to in subsection (4), the following are to be disregarded—
- [<sup>F128</sup>(za) Saturday,]
- (a) Sunday,
  - (b) Christmas Day,
  - (c) Good Friday,
  - (d) any day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in the part of the United Kingdom where the person is for the time being detained.

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#### Textual Amendments

**F128** S. 91(5)(za) inserted (15.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153(7), [Sch. 26 para. 63](#); [S.I. 2008/1586](#), [art. 2\(2\)](#)

#### Commencement Information

**I65** S. 91 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 5](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### Part 10: supplementary

#### 92 Functions of the DPP

- (1) Section 1(7) of the Prosecution of Offences Act 1985 (c. 23) (DPP's functions exercisable by Crown Prosecutor) does not apply to the provisions of this Part other than section 85(2)(a).
- (2) In the absence of the Director of Public Prosecutions, his functions under those provisions may be exercised by a person authorised by him.
- (3) An authorisation under subsection (2)—
  - (a) may relate to a specified person or to persons of a specified description, and
  - (b) may be general or relate to a specified function or specified circumstances.

#### Commencement Information

**I66** S. 92 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 5](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 93 Rules of court

- (1) Rules of court may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this Part.
- (2) Without limiting subsection (1), rules of court may in particular make provision as to procedures to be applied in connection with sections 76 to 82, 84 and 88 to 90.
- (3) Nothing in this section is to be taken as affecting the generality of any enactment conferring power to make rules of court.

#### 94 Armed Forces: Part 10

- [<sup>F129</sup>(1) Section 323 of the Armed Forces Act 2006 (provision in consequence of criminal justice enactments) applies in relation to an enactment contained in this Part so far as relating to matters not specified in subsection (2) of section 324 of that Act as it applies in relation to a criminal justice enactment (within the meaning given by that section).]
- (2) The power under [<sup>F130</sup>section 323 of that Act] to make provision equivalent to that made in relation to qualifying offences by an enactment contained in this Part (with or without modifications) includes power to make such provision in relation to such service offences as the Secretary of State thinks fit.

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[<sup>F131</sup>(3) In subsection (2) “service offence” has the same meaning as in the Armed Forces Act 2006.]

#### Textual Amendments

**F129** S. 94(1) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 214\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**F130** Words in s. 94(2) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 214\(3\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**F131** S. 94(3) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 214\(4\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

#### Commencement Information

**I67** S. 94 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 5](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 95 Interpretation of Part 10

(1) In this Part—

“the 1984 Act” means the Police and Criminal Evidence Act 1984 (c. 60),  
“acquittal” and related expressions are to be read in accordance with section 75(7),

“customs and excise officer” means an officer as defined by section 1(1) of the Customs and Excise Management Act 1979 (c. 2), or a person to whom section 8(2) of that Act applies,

“new evidence” is to be read in accordance with section 78(2),

“officer”, except in section 83, means an officer of a police force or a customs and excise officer,

“police force” has the meaning given by section 3(3) of the Prosecution of Offences Act 1985 (c. 23),

“prosecutor” means an individual or body charged with duties to conduct criminal prosecutions,

“qualifying offence” has the meaning given by section 75(8).

(2) Subject to rules of court made under section 53(1) of the Supreme Court Act 1981 (c. 54) (power by rules to distribute business of Court of Appeal between its civil and criminal divisions)—

(a) the jurisdiction of the Court of Appeal under this Part is to be exercised by the criminal division of that court, and

(b) references in this Part to the Court of Appeal are to be construed as references to that division.

(3) References in this Part to an officer of a specified rank or above are, in the case of a customs and excise officer, references to an officer of such description as—

(a) appears to the Commissioners of Customs and Excise to comprise officers of equivalent rank or above, and

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- (b) is specified by the Commissioners for the purposes of the provision concerned.

#### Commencement Information

**I68** S. 95 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 5 (subject to art. 2(2), Sch. 2)

## 96 Application of Part 10 to Northern Ireland

- (1) In its application to Northern Ireland this Part is to have effect subject to the modifications in this section.
- (2) In sections 75(1)(a) and (b), 76(2)(a), 79(3) and 85(2)(a) for “England and Wales” substitute “Northern Ireland”.
- (3) For section 75(2)(c) substitute—
- “(c) in respect of which, in proceedings where he has been found to be unfit to be tried in accordance with Article 49 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)), a finding has been made that he did the act or made the omission charged against him.”
- (4) In section 75(8) for “Part 1” substitute “Part 2”.
- (5) In section 81(1) for “Criminal Appeal Act 1968 (c. 19)” substitute “Criminal Appeal (Northern Ireland) Act 1980 (c. 47)”.
- (6) In section 81(2)—
- (a) for “33” substitute “31”, and
- (b) for “An” substitute “Subject to the provisions of this Part of this Act, an”.
- (7) In section 81(4)—
- (a) for “34(2)” substitute “32(2)”, and
- (b) for “33(1B)” substitute “31(1B)”.
- (8) In section 82(10) after “enactment” in each place insert “(including any provision of Northern Ireland legislation)”.
- (9) In section 84(1) and (2) for “preferred” substitute “presented”.
- (10) Section 84(6) has effect—
- (a) as if any reference to a provision of Part 11 were a reference to any corresponding provision contained in an Order in Council to which section 334(1) applies, at any time when such corresponding provision is in force;
- (b) at any other time, with the omission of paragraphs (b) and (c).
- (11) After section 84(6) insert—
- “(6A) Article 29 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8)) applies in the case of a person who is to be tried in accordance with subsection (1) as if—
- (a) he had been returned for trial for the offence in question, and



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- (b) the reference in paragraph (2)(a) of that Article to a magistrates' court included a reference to the Court of Appeal.”

(12) In section 87—

- (a) in subsection (3), for “Part 4 of the 1984 Act” substitute “ Part 5 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S. I. 1989/1341 (N. I. 12)) (“the 1989 Order”) ”,
- (b) in paragraph (b) of that subsection, for “section 34(7) of that Act” substitute “ Article 35(8) of that Order ”,
- (c) in subsection (6)—
  - (i) for the words from the beginning to “40(8) of that Act” substitute “ Article 38 of that Order (including any provision of that Article as applied by Article 41(8) of that Order) ”,
  - (ii) for “subsection” in each place substitute “paragraph ,
  - (iii) in paragraph (e), for “subsections (7A), (7B) and (8)” substitute “ paragraph (8) ”, and
  - (iv) in paragraph (f), in the inserted paragraph (10A) omit “above”,
- (d) for subsection (7) substitute—
  - “(7) Article 41 of that Order has effect as if in paragraphs (8) and (9) of that Article after “(6)” there were inserted “and (10A).”,
- (e) in subsection (8)—
  - (i) for “Section 42 of that Act” substitute “ Article 43 of that Order ”, and
  - (ii) for “subsection (1) of that section” substitute “ paragraph (1) of that Article ”.

(13) For section 88(1) substitute—

- “(1) In relation to a person charged in accordance with section 87(4)—
  - (a) Article 39 of the 1989 Order (including any provision of that Article as applied by Article 41(10) of that Order) has effect as if, in paragraph (1), for “either on bail or without bail” there were substituted “ on bail ”,
  - (b) Article 48 of that Order has effect as if for paragraphs (1) to (11) there were substituted—
    - “(1) A person who is released on bail shall be subject to a duty to appear before the Crown Court at such place as the custody officer may appoint and at such time, not later than 24 hours after the person is released, as that officer may appoint.
    - (2) The custody officer may require a person who is to be released on bail to enter into a recognisance conditioned upon his subsequent appearance before the Crown Court in accordance with paragraph (1).
    - (3) A recognisance under paragraph (2) may be taken before the custody officer.”, and
  - (c) Article 132A of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) does not apply.”

(14) In section 88(2)—

- (a) for paragraph (b) substitute—



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- “(b) detained in a place of safety in pursuance of arrangements made under Article 39(6) of the 1989 Order,” and
- (b) for “section 46 of the 1984 Act” substitute “ Article 47 of the 1989 Order ”.
- (15) In section 89(6) for “section 81(5) of the Supreme Court Act 1981 (c. 54)” substitute “ section 51(8) of the Judicature (Northern Ireland) Act 1978 (c. 23) ”.
- (16) For section 90(4) substitute—
- “(4) The court may at any time, as it sees fit, vary the conditions of bail granted under this section.”
- (17) In section 92(1) for the words from the beginning to “does” substitute “ Sections 30(4) and 36 of the Justice (Northern Ireland) Act 2002 (c. 26) do ”.
- (18) Until the coming into force of section 36 of that Act of 2002 the reference to that section in subsection (17) is to be read as a reference to Article 4(8) of the Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1)).
- (19) In section 93(2) for “the Criminal Appeal Rules and the Crown Court Rules” substitute “ rules under section 55 of the Judicature (Northern Ireland) Act 1978 and Crown Court Rules ”.
- (20) In section 93(3) after “enactment” insert “ (including any provision of Northern Ireland legislation) ”.
- (21) In section 95(1) for the definition of “police force” substitute—
- ““police force” means—
- (a) the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve,
- (b) the Ministry of Defence Police,
- (c) any body of constables appointed under Article 19 of the Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1)), or
- (d) any body of special constables appointed in Northern Ireland under section 79 of the Harbours, Docks and Piers Clauses Act 1847 (c. 27) or section 57 of the Civil Aviation Act 1982 (c. 16),”.
- (22) Omit section 95(2).

## 97 Application of Criminal Appeal Acts to proceedings under Part 10

[<sup>F132</sup>(1)] Subject to the provisions of this Part, the Secretary of State may make an order containing provision, in relation to proceedings [<sup>F133</sup>in England and Wales] before the Court of Appeal under this Part, which corresponds to any provision, in relation to appeals or other proceedings before that court, which is contained in the Criminal Appeal Act 1968 (c. 19)<sup>F134</sup> . . . (subject to any specified modifications).

[<sup>F135</sup>(2)] Subject to the provisions of this Part, the Department of Justice in Northern Ireland may make an order containing provision, in relation to proceedings in Northern Ireland before the Court of Appeal under this Part, which corresponds to any provision, in relation to appeals or other proceedings before that court, which is contained in the Criminal Appeal (Northern Ireland) Act 1980 <sup>F136</sup> (subject to any specified modifications).]

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### **Textual Amendments**

- F132** Words in s. 97 renumbered (12.4.2010) as s. 97(1) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, **Sch. 14 para. 78(3)(a)** (with arts. 28-31); S.I. 2010/977, art. 1(2)
- F133** Words in s. 97(1) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, **Sch. 14 para. 78(3)(c)** (with arts. 28-31); S.I. 2010/977, art. 1(2)
- F134** Words in s. 97 omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, **Sch. 14 para. 78(3)(a)** (with arts. 28-31); S.I. 2010/977, art. 1(2)
- F135** S. 97(2) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, **Sch. 14 para. 78(3)(d)** (with arts. 28-31); S.I. 2010/977, art. 1(2)
- F136** 1980 c. 47.

## **PART 11**

### EVIDENCE

#### **CHAPTER 1**

##### EVIDENCE OF BAD CHARACTER

###### *Introductory*

### **98 “Bad character”**

References in this Chapter to evidence of a person’s “bad character” are to evidence of, or of a disposition towards, misconduct on his part, other than evidence which—

- (a) has to do with the alleged facts of the offence with which the defendant is charged, or
- (b) is evidence of misconduct in connection with the investigation or prosecution of that offence.

### **99 Abolition of common law rules**

- (1) The common law rules governing the admissibility of evidence of bad character in criminal proceedings are abolished.
- (2) Subsection (1) is subject to section 118(1) in so far as it preserves the rule under which in criminal proceedings a person’s reputation is admissible for the purposes of proving his bad character.

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### *Persons other than defendants*

#### **100 Non-defendant's bad character**

- (1) In criminal proceedings evidence of the bad character of a person other than the defendant is admissible if and only if—
  - (a) it is important explanatory evidence,
  - (b) it has substantial probative value in relation to a matter which—
    - (i) is a matter in issue in the proceedings, and
    - (ii) is of substantial importance in the context of the case as a whole,or
  - (c) all parties to the proceedings agree to the evidence being admissible.
- (2) For the purposes of subsection (1)(a) evidence is important explanatory evidence if—
  - (a) without it, the court or jury would find it impossible or difficult properly to understand other evidence in the case, and
  - (b) its value for understanding the case as a whole is substantial.
- (3) In assessing the probative value of evidence for the purposes of subsection (1)(b) the court must have regard to the following factors (and to any others it considers relevant)  
—
  - (a) the nature and number of the events, or other things, to which the evidence relates;
  - (b) when those events or things are alleged to have happened or existed;
  - (c) where—
    - (i) the evidence is evidence of a person's misconduct, and
    - (ii) it is suggested that the evidence has probative value by reason of similarity between that misconduct and other alleged misconduct,the nature and extent of the similarities and the dissimilarities between each of the alleged instances of misconduct;
  - (d) where—
    - (i) the evidence is evidence of a person's misconduct,
    - (ii) it is suggested that that person is also responsible for the misconduct charged, and
    - (iii) the identity of the person responsible for the misconduct charged is disputed,the extent to which the evidence shows or tends to show that the same person was responsible each time.
- (4) Except where subsection (1)(c) applies, evidence of the bad character of a person other than the defendant must not be given without leave of the court.

### *Defendants*

#### **101 Defendant's bad character**

- (1) In criminal proceedings evidence of the defendant's bad character is admissible if, but only if—
  - (a) all parties to the proceedings agree to the evidence being admissible,

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- (b) the evidence is adduced by the defendant himself or is given in answer to a question asked by him in cross-examination and intended to elicit it,
  - (c) it is important explanatory evidence,
  - (d) it is relevant to an important matter in issue between the defendant and the prosecution,
  - (e) it has substantial probative value in relation to an important matter in issue between the defendant and a co-defendant,
  - (f) it is evidence to correct a false impression given by the defendant, or
  - (g) the defendant has made an attack on another person's character.
- (2) Sections 102 to 106 contain provision supplementing subsection (1).
- (3) The court must not admit evidence under subsection (1)(d) or (g) if, on an application by the defendant to exclude it, it appears to the court that the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.
- (4) On an application to exclude evidence under subsection (3) the court must have regard, in particular, to the length of time between the matters to which that evidence relates and the matters which form the subject of the offence charged.

## **102 “Important explanatory evidence”**

For the purposes of section 101(1)(c) evidence is important explanatory evidence if—

- (a) without it, the court or jury would find it impossible or difficult properly to understand other evidence in the case, and
- (b) its value for understanding the case as a whole is substantial.

## **103 “Matter in issue between the defendant and the prosecution”**

- (1) For the purposes of section 101(1)(d) the matters in issue between the defendant and the prosecution include—
- (a) the question whether the defendant has a propensity to commit offences of the kind with which he is charged, except where his having such a propensity makes it no more likely that he is guilty of the offence;
  - (b) the question whether the defendant has a propensity to be untruthful, except where it is not suggested that the defendant's case is untruthful in any respect.
- (2) Where subsection (1)(a) applies, a defendant's propensity to commit offences of the kind with which he is charged may (without prejudice to any other way of doing so) be established by evidence that he has been convicted of—
- (a) an offence of the same description as the one with which he is charged, or
  - (b) an offence of the same category as the one with which he is charged.
- (3) Subsection (2) does not apply in the case of a particular defendant if the court is satisfied, by reason of the length of time since the conviction or for any other reason, that it would be unjust for it to apply in his case.
- (4) For the purposes of subsection (2)—
- (a) two offences are of the same description as each other if the statement of the offence in a written charge or indictment would, in each case, be in the same terms;

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- (b) two offences are of the same category as each other if they belong to the same category of offences prescribed for the purposes of this section by an order made by the Secretary of State.
- (5) A category prescribed by an order under subsection (4)(b) must consist of offences of the same type.
- (6) Only prosecution evidence is admissible under section 101(1)(d).
- [<sup>F137</sup>(7) Where—
- (a) a defendant has been convicted of an offence under the law of any country outside England and Wales (“the previous offence”), and
  - (b) the previous offence would constitute an offence under the law of England and Wales (“the corresponding offence”) if it were done in England and Wales at the time of the trial for the offence with which the defendant is now charged (“the current offence”),
- subsection (8) applies for the purpose of determining if the previous offence and the current offence are of the same description or category.
- (8) For the purposes of subsection (2)—
- (a) the previous offence is of the same description as the current offence if the corresponding offence is of that same description, as set out in subsection (4)(a);
  - (b) the previous offence is of the same category as the current offence if the current offence and the corresponding offence belong to the same category of offences prescribed as mentioned in subsection (4)(b).
- (9) For the purposes of subsection (10) “foreign service offence” means an offence which—
- (a) was the subject of proceedings under the service law of a country outside the United Kingdom, and
  - (b) would constitute an offence under the law of England and Wales or a service offence (“the corresponding domestic offence”) if it were done in England and Wales by a member of Her Majesty's forces at the time of the trial for the offence with which the defendant is now charged (“the current offence”).
- (10) Where a defendant has been found guilty of a foreign service offence (“the previous service offence”), for the purposes of subsection (2)—
- (a) the previous service offence is an offence of the same description as the current offence if the corresponding domestic offence is of that same description, as set out in subsection (4)(a);
  - (b) the previous service offence is an offence of the same category as the current offence if the current offence and the corresponding domestic offence belong to the same category of offences prescribed as mentioned in subsection (4)(b).
- (11) In this section—
- “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;
  - “service law”, in relation to a country outside the United Kingdom, means the law governing all or any of the naval, military or air forces of that country.]

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### Textual Amendments

**F137** S. 103(7)-(11) added (15.8.2010) by **Coroners and Justice Act 2009 (c. 25)**, ss. 144, 182, **Sch. 17 para. 1(2)** (with s. 180, Sch. 22); S.I. 2010/1858, **art. 3(a)(d)(i)**

## 104 “Matter in issue between the defendant and a co-defendant”

- (1) Evidence which is relevant to the question whether the defendant has a propensity to be untruthful is admissible on that basis under section 101(1)(e) only if the nature or conduct of his defence is such as to undermine the co-defendant’s defence.
- (2) Only evidence—
  - (a) which is to be (or has been) adduced by the co-defendant, or
  - (b) which a witness is to be invited to give (or has given) in cross-examination by the co-defendant,
 is admissible under section 101(1)(e).

## 105 “Evidence to correct a false impression”

- (1) For the purposes of section 101(1)(f)—
  - (a) the defendant gives a false impression if he is responsible for the making of an express or implied assertion which is apt to give the court or jury a false or misleading impression about the defendant;
  - (b) evidence to correct such an impression is evidence which has probative value in correcting it.
- (2) A defendant is treated as being responsible for the making of an assertion if—
  - (a) the assertion is made by the defendant in the proceedings (whether or not in evidence given by him),
  - (b) the assertion was made by the defendant—
    - (i) on being questioned under caution, before charge, about the offence with which he is charged, or
    - (ii) on being charged with the offence or officially informed that he might be prosecuted for it,
 and evidence of the assertion is given in the proceedings,
  - (c) the assertion is made by a witness called by the defendant,
  - (d) the assertion is made by any witness in cross-examination in response to a question asked by the defendant that is intended to elicit it, or is likely to do so, or
  - (e) the assertion was made by any person out of court, and the defendant adduces evidence of it in the proceedings.
- (3) A defendant who would otherwise be treated as responsible for the making of an assertion shall not be so treated if, or to the extent that, he withdraws it or disassociates himself from it.
- (4) Where it appears to the court that a defendant, by means of his conduct (other than the giving of evidence) in the proceedings, is seeking to give the court or jury an impression about himself that is false or misleading, the court may if it appears just

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to do so treat the defendant as being responsible for the making of an assertion which is apt to give that impression.

- (5) In subsection (4) “conduct” includes appearance or dress.
- (6) Evidence is admissible under section 101(1)(f) only if it goes no further than is necessary to correct the false impression.
- (7) Only prosecution evidence is admissible under section 101(1)(f).

## **106 “Attack on another person’s character”**

- (1) For the purposes of section 101(1)(g) a defendant makes an attack on another person’s character if—
  - (a) he adduces evidence attacking the other person’s character,
  - (b) he (or any legal representative appointed under section 38(4) of the Youth Justice and Criminal Evidence Act 1999 (c. 23) to cross-examine a witness in his interests) asks questions in cross-examination that are intended to elicit such evidence, or are likely to do so, or
  - (c) evidence is given of an imputation about the other person made by the defendant—
    - (i) on being questioned under caution, before charge, about the offence with which he is charged, or
    - (ii) on being charged with the offence or officially informed that he might be prosecuted for it.
- (2) In subsection (1) “evidence attacking the other person’s character” means evidence to the effect that the other person—
  - (a) has committed an offence (whether a different offence from the one with which the defendant is charged or the same one), or
  - (b) has behaved, or is disposed to behave, in a reprehensible way;and “imputation about the other person” means an assertion to that effect.
- (3) Only prosecution evidence is admissible under section 101(1)(g).

## **107 Stopping the case where evidence contaminated**

- (1) If on a defendant’s trial before a judge and jury for an offence—
  - (a) evidence of his bad character has been admitted under any of paragraphs (c) to (g) of section 101(1), and
  - (b) the court is satisfied at any time after the close of the case for the prosecution that—
    - (i) the evidence is contaminated, and
    - (ii) the contamination is such that, considering the importance of the evidence to the case against the defendant, his conviction of the offence would be unsafe,the court must either direct the jury to acquit the defendant of the offence or, if it considers that there ought to be a retrial, discharge the jury.
- (2) Where—
  - (a) a jury is directed under subsection (1) to acquit a defendant of an offence, and

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(b) the circumstances are such that, apart from this subsection, the defendant could if acquitted of that offence be found guilty of another offence, the defendant may not be found guilty of that other offence if the court is satisfied as mentioned in subsection (1)(b) in respect of it.

(3) If—

- (a) a jury is required to determine under section 4A(2) of the Criminal Procedure (Insanity) Act 1964 (c. 84) whether a person charged on an indictment with an offence did the act or made the omission charged,
- (b) evidence of the person’s bad character has been admitted under any of paragraphs (c) to (g) of section 101(1), and
- (c) the court is satisfied at any time after the close of the case for the prosecution that—
  - (i) the evidence is contaminated, and
  - (ii) the contamination is such that, considering the importance of the evidence to the case against the person, a finding that he did the act or made the omission would be unsafe,

the court must either direct the jury to acquit the defendant of the offence or, if it considers that there ought to be a rehearing, discharge the jury.

(4) This section does not prejudice any other power a court may have to direct a jury to acquit a person of an offence or to discharge a jury.

(5) For the purposes of this section a person’s evidence is contaminated where—

- (a) as a result of an agreement or understanding between the person and one or more others, or
- (b) as a result of the person being aware of anything alleged by one or more others whose evidence may be, or has been, given in the proceedings,

the evidence is false or misleading in any respect, or is different from what it would otherwise have been.

## **108 Offences committed by defendant when a child**

(1) Section 16(2) and (3) of the Children and Young Persons Act 1963 (c. 37) (offences committed by person under 14 disregarded for purposes of evidence relating to previous convictions) shall cease to have effect.

(2) In proceedings for an offence committed or alleged to have been committed by the defendant when aged 21 or over, evidence of his conviction for an offence when under the age of 14 is not admissible unless—

- (a) both of the offences are triable only on indictment, and
- (b) the court is satisfied that the interests of justice require the evidence to be admissible.

[<sup>F138</sup>(2A) Subsection (2B) applies where—

- (a) the defendant has been convicted of an offence under the law of any country outside England and Wales (“the previous offence”), and
- (b) the previous offence would constitute an offence under the law of England and Wales (“the corresponding offence”) if it were done in England and Wales at the time of the proceedings for the offence with which the defendant is now charged.



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(2B) For the purposes of subsection (2), the previous offence is to be regarded as triable only on indictment if the corresponding offence is so triable.]

(3) Subsection (2) applies in addition to section 101.

#### Textual Amendments

**F138** S. 108(2A)(2B) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, Sch. 17 para. 1(2) (with s. 180, Sch. 22); S.I. 2010/1858, art. 3(a)(d)(i)

### General

#### 109 Assumption of truth in assessment of relevance or probative value

- (1) Subject to subsection (2), a reference in this Chapter to the relevance or probative value of evidence is a reference to its relevance or probative value on the assumption that it is true.
- (2) In assessing the relevance or probative value of an item of evidence for any purpose of this Chapter, a court need not assume that the evidence is true if it appears, on the basis of any material before the court (including any evidence it decides to hear on the matter), that no court or jury could reasonably find it to be true.

#### 110 Court's duty to give reasons for rulings

- (1) Where the court makes a relevant ruling—
  - (a) it must state in open court (but in the absence of the jury, if there is one) its reasons for the ruling;
  - (b) if it is a magistrates' court, it must cause the ruling and the reasons for it to be entered in the register of the court's proceedings.
- (2) In this section “relevant ruling” means—
  - (a) a ruling on whether an item of evidence is evidence of a person's bad character;
  - (b) a ruling on whether an item of such evidence is admissible under section 100 or 101 (including a ruling on an application under section 101(3));
  - (c) a ruling under section 107.

#### 111 Rules of court

- (1) Rules of court may make such provision as appears to the appropriate authority to be necessary or expedient for the purposes of this Act; and the appropriate authority is the authority entitled to make the rules.
- (2) The rules may, and, where the party in question is the prosecution, must, contain provision requiring a party who—
  - (a) proposes to adduce evidence of a defendant's bad character, or
  - (b) proposes to cross-examine a witness with a view to eliciting such evidence,to serve on the defendant such notice, and such particulars of or relating to the evidence, as may be prescribed.

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- (3) The rules may provide that the court or the defendant may, in such circumstances as may be prescribed, dispense with a requirement imposed by virtue of subsection (2).
- (4) In considering the exercise of its powers with respect to costs, the court may take into account any failure by a party to comply with a requirement imposed by virtue of subsection (2) and not dispensed with by virtue of subsection (3).
- (5) The rules may—
  - (a) limit the application of any provision of the rules to prescribed circumstances;
  - (b) subject any provision of the rules to prescribed exceptions;
  - (c) make different provision for different cases or circumstances.
- (6) Nothing in this section prejudices the generality of any enactment conferring power to make rules of court; and no particular provision of this section prejudices any general provision of it.

[<sup>F139</sup>(7) In this section “prescribed” means prescribed by rules of court.]

#### Textual Amendments

**F139** S. 111(7) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 49](#) (with art. 2(2))

## 112 Interpretation of Chapter 1

- (1) In this Chapter—
  - “bad character” is to be read in accordance with section 98;
  - “criminal proceedings” means criminal proceedings in relation to which the strict rules of evidence apply;
  - “defendant”, in relation to criminal proceedings, means a person charged with an offence in those proceedings; and “co-defendant”, in relation to a defendant, means a person charged with an offence in the same proceedings;
  - “important matter” means a matter of substantial importance in the context of the case as a whole;
  - “misconduct” means the commission of an offence or other reprehensible behaviour;
  - “offence” includes a service offence;
  - “probative value”, and “relevant” (in relation to an item of evidence), are to be read in accordance with section 109;
  - “prosecution evidence” means evidence which is to be (or has been) adduced by the prosecution, or which a witness is to be invited to give (or has given) in cross-examination by the prosecution;
  - [<sup>F140</sup>“service offence” has the same meaning as in the Armed Forces Act 2006;]
  - “written charge” has the same meaning as in section 29 and also includes an information.
- (2) Where a defendant is charged with two or more offences in the same criminal proceedings, this Chapter (except section 101(3)) has effect as if each offence were charged in separate proceedings; and references to the offence with which the defendant is charged are to be read accordingly.

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- (3) Nothing in this Chapter affects the exclusion of evidence—
- (a) under the rule in section 3 of the Criminal Procedure Act 1865 (c. 18) against a party impeaching the credit of his own witness by general evidence of bad character,
  - (b) under section 41 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (restriction on evidence or questions about complainant’s sexual history), or
  - (c) on grounds other than the fact that it is evidence of a person’s bad character.

#### Textual Amendments

**F140** S. 112(1): definition of "service offence" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 215](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

#### Modifications etc. (not altering text)

**C6** S. 112(1) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 53\(2\)](#)

### 113 Armed forces

Schedule 6 (armed forces) has effect.

## CHAPTER 2

### HEARSAY EVIDENCE

#### *Hearsay: main provisions*

### 114 Admissibility of hearsay evidence

- (1) In criminal proceedings a statement not made in oral evidence in the proceedings is admissible as evidence of any matter stated if, but only if—
- (a) any provision of this Chapter or any other statutory provision makes it admissible,
  - (b) any rule of law preserved by section 118 makes it admissible,
  - (c) all parties to the proceedings agree to it being admissible, or
  - (d) the court is satisfied that it is in the interests of justice for it to be admissible.
- (2) In deciding whether a statement not made in oral evidence should be admitted under subsection (1)(d), the court must have regard to the following factors (and to any others it considers relevant)—
- (a) how much probative value the statement has (assuming it to be true) in relation to a matter in issue in the proceedings, or how valuable it is for the understanding of other evidence in the case;
  - (b) what other evidence has been, or can be, given on the matter or evidence mentioned in paragraph (a);
  - (c) how important the matter or evidence mentioned in paragraph (a) is in the context of the case as a whole;

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- (d) the circumstances in which the statement was made;
  - (e) how reliable the maker of the statement appears to be;
  - (f) how reliable the evidence of the making of the statement appears to be;
  - (g) whether oral evidence of the matter stated can be given and, if not, why it cannot;
  - (h) the amount of difficulty involved in challenging the statement;
  - (i) the extent to which that difficulty would be likely to prejudice the party facing it.
- (3) Nothing in this Chapter affects the exclusion of evidence of a statement on grounds other than the fact that it is a statement not made in oral evidence in the proceedings.

#### Commencement Information

**I69** S. 114 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 115 Statements and matters stated

- (1) In this Chapter references to a statement or to a matter stated are to be read as follows.
- (2) A statement is any representation of fact or opinion made by a person by whatever means; and it includes a representation made in a sketch, photofit or other pictorial form.
- (3) A matter stated is one to which this Chapter applies if (and only if) the purpose, or one of the purposes, of the person making the statement appears to the court to have been—
- (a) to cause another person to believe the matter, or
  - (b) to cause another person to act or a machine to operate on the basis that the matter is as stated.

#### Commencement Information

**I70** S. 115 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### *Principal categories of admissibility*

## 116 Cases where a witness is unavailable

- (1) In criminal proceedings a statement not made in oral evidence in the proceedings is admissible as evidence of any matter stated if—
- (a) oral evidence given in the proceedings by the person who made the statement would be admissible as evidence of that matter,
  - (b) the person who made the statement (the relevant person) is identified to the court's satisfaction, and
  - (c) any of the five conditions mentioned in subsection (2) is satisfied.
- (2) The conditions are—
- (a) that the relevant person is dead;

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- (b) that the relevant person is unfit to be a witness because of his bodily or mental condition;
  - (c) that the relevant person is outside the United Kingdom and it is not reasonably practicable to secure his attendance;
  - (d) that the relevant person cannot be found although such steps as it is reasonably practicable to take to find him have been taken;
  - (e) that through fear the relevant person does not give (or does not continue to give) oral evidence in the proceedings, either at all or in connection with the subject matter of the statement, and the court gives leave for the statement to be given in evidence.
- (3) For the purposes of subsection (2)(e) “fear” is to be widely construed and (for example) includes fear of the death or injury of another person or of financial loss.
- (4) Leave may be given under subsection (2)(e) only if the court considers that the statement ought to be admitted in the interests of justice, having regard—
- (a) to the statement’s contents,
  - (b) to any risk that its admission or exclusion will result in unfairness to any party to the proceedings (and in particular to how difficult it will be to challenge the statement if the relevant person does not give oral evidence),
  - (c) in appropriate cases, to the fact that a direction under section 19 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (special measures for the giving of evidence by fearful witnesses etc) could be made in relation to the relevant person, and
  - (d) to any other relevant circumstances.
- (5) A condition set out in any paragraph of subsection (2) which is in fact satisfied is to be treated as not satisfied if it is shown that the circumstances described in that paragraph are caused—
- (a) by the person in support of whose case it is sought to give the statement in evidence, or
  - (b) by a person acting on his behalf,
- in order to prevent the relevant person giving oral evidence in the proceedings (whether at all or in connection with the subject matter of the statement).

#### Commencement Information

**I71** S. 116 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 6 (subject to art. 2(2), Sch. 2)

### 117 Business and other documents

- (1) In criminal proceedings a statement contained in a document is admissible as evidence of any matter stated if—
- (a) oral evidence given in the proceedings would be admissible as evidence of that matter,
  - (b) the requirements of subsection (2) are satisfied, and
  - (c) the requirements of subsection (5) are satisfied, in a case where subsection (4) requires them to be.
- (2) The requirements of this subsection are satisfied if—

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- (a) the document or the part containing the statement was created or received by a person in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office,
  - (b) the person who supplied the information contained in the statement (the relevant person) had or may reasonably be supposed to have had personal knowledge of the matters dealt with, and
  - (c) each person (if any) through whom the information was supplied from the relevant person to the person mentioned in paragraph (a) received the information in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office.
- (3) The persons mentioned in paragraphs (a) and (b) of subsection (2) may be the same person.
- (4) The additional requirements of subsection (5) must be satisfied if the statement—
- (a) was prepared for the purposes of pending or contemplated criminal proceedings, or for a criminal investigation, but
  - [<sup>F141</sup>(b) was not obtained pursuant to—
    - (i) a request under section 7 of the Crime (International Co-operation) Act 2003,
    - (ii) an order under paragraph 6 of Schedule 13 to the Criminal Justice Act 1988,<sup>F142</sup> ...
    - (iii) <sup>F143</sup> ..., [<sup>F144</sup>or
    - (iv) an overseas production order under the Crime (Overseas Production Orders) Act 2019,]
 (all of which relate to overseas evidence)]
- (5) The requirements of this subsection are satisfied if—
- (a) any of the five conditions mentioned in section 116(2) is satisfied (absence of relevant person etc), or
  - (b) the relevant person cannot reasonably be expected to have any recollection of the matters dealt with in the statement (having regard to the length of time since he supplied the information and all other circumstances).
- (6) A statement is not admissible under this section if the court makes a direction to that effect under subsection (7).
- (7) The court may make a direction under this subsection if satisfied that the statement's reliability as evidence for the purpose for which it is tendered is doubtful in view of—
- (a) its contents,
  - (b) the source of the information contained in it,
  - (c) the way in which or the circumstances in which the information was supplied or received, or
  - (d) the way in which or the circumstances in which the document concerned was created or received.

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#### Textual Amendments

**F141** S. 117(4)(b) substituted (31.7.2017) by [The Criminal Justice \(European Investigation Order\) Regulations 2017 \(S.I. 2017/730\)](#), reg. 1(1), **Sch. 3 para. 8** (with reg. 3)

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**F142** Word in s. 117(4)(b)(ii) omitted (9.10.2019) by Crime (Overseas Production Orders) Act 2019 (c. 5), ss. 10(3)(a), 20(1); S.I. 2019/1318, reg. 2(2)(j)(3)

**F143** Words in s. 117(4)(b)(iii) omitted (31.12.2020) by virtue of The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, 80 (with reg. 83); 2020 c. 1, Sch. 5 para. 1(1)

**F144** S. 117(4)(b)(iv) and preceding word inserted (9.10.2019) by Crime (Overseas Production Orders) Act 2019 (c. 5), ss. 10(3)(b), 20(1); S.I. 2019/1318, reg. 2(2)(j)(3)

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#### Commencement Information

**I72** S. 117 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 6 (subject to art. 2(2), Sch. 2)

## 118 Preservation of certain common law categories of admissibility

(1) The following rules of law are preserved.

### *Public information etc*

- 1 Any rule of law under which in criminal proceedings—
- published works dealing with matters of a public nature (such as histories, scientific works, dictionaries and maps) are admissible as evidence of facts of a public nature stated in them,
  - public documents (such as public registers, and returns made under public authority with respect to matters of public interest) are admissible as evidence of facts stated in them,
  - records (such as the records of certain courts, treaties, Crown grants, pardons and commissions) are admissible as evidence of facts stated in them, or
  - evidence relating to a person's age or date or place of birth may be given by a person without personal knowledge of the matter.

### *Reputation as to character*

2 Any rule of law under which in criminal proceedings evidence of a person's reputation is admissible for the purpose of proving his good or bad character.

### *Note*

The rule is preserved only so far as it allows the court to treat such evidence as proving the matter concerned.

### *Reputation or family tradition*

- 3 Any rule of law under which in criminal proceedings evidence of reputation or family tradition is admissible for the purpose of proving or disproving—
- pedigree or the existence of a marriage,
  - the existence of any public or general right, or
  - the identity of any person or thing.

### *Note*

The rule is preserved only so far as it allows the court to treat such evidence as proving or disproving the matter concerned.

### *Res gestae*



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4 Any rule of law under which in criminal proceedings a statement is admissible as evidence of any matter stated if—

- (a) the statement was made by a person so emotionally overpowered by an event that the possibility of concoction or distortion can be disregarded,
- (b) the statement accompanied an act which can be properly evaluated as evidence only if considered in conjunction with the statement, or
- (c) the statement relates to a physical sensation or a mental state (such as intention or emotion).

*Confessions etc*

5 Any rule of law relating to the admissibility of confessions or mixed statements in criminal proceedings.

*Admissions by agents etc*

6 Any rule of law under which in criminal proceedings—

- (a) an admission made by an agent of a defendant is admissible against the defendant as evidence of any matter stated, or
- (b) a statement made by a person to whom a defendant refers a person for information is admissible against the defendant as evidence of any matter stated.

*Common enterprise*

7 Any rule of law under which in criminal proceedings a statement made by a party to a common enterprise is admissible against another party to the enterprise as evidence of any matter stated.

*Expert evidence*

8 Any rule of law under which in criminal proceedings an expert witness may draw on the body of expertise relevant to his field.

- (2) With the exception of the rules preserved by this section, the common law rules governing the admissibility of hearsay evidence in criminal proceedings are abolished.

**Commencement Information**

**I73** S. 118 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 6 (subject to **art. 2(2)**, Sch. 2)

**119 Inconsistent statements**

- (1) If in criminal proceedings a person gives oral evidence and—
- (a) he admits making a previous inconsistent statement, or
  - (b) a previous inconsistent statement made by him is proved by virtue of section 3, 4 or 5 of the Criminal Procedure Act 1865 (c. 18),
- the statement is admissible as evidence of any matter stated of which oral evidence by him would be admissible.



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- (2) If in criminal proceedings evidence of an inconsistent statement by any person is given under section 124(2)(c), the statement is admissible as evidence of any matter stated in it of which oral evidence by that person would be admissible.

**Commencement Information**

**I74** S. 119 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 6** (subject to **art. 2(2)**, **Sch. 2**)

**120 Other previous statements of witnesses**

- (1) This section applies where a person (the witness) is called to give evidence in criminal proceedings.
- (2) If a previous statement by the witness is admitted as evidence to rebut a suggestion that his oral evidence has been fabricated, that statement is admissible as evidence of any matter stated of which oral evidence by the witness would be admissible.
- (3) A statement made by the witness in a document—
- (a) which is used by him to refresh his memory while giving evidence,
  - (b) on which he is cross-examined, and
  - (c) which as a consequence is received in evidence in the proceedings,
- is admissible as evidence of any matter stated of which oral evidence by him would be admissible.
- (4) A previous statement by the witness is admissible as evidence of any matter stated of which oral evidence by him would be admissible, if—
- (a) any of the following three conditions is satisfied, and
  - (b) while giving evidence the witness indicates that to the best of his belief he made the statement, and that to the best of his belief it states the truth.
- (5) The first condition is that the statement identifies or describes a person, object or place.
- (6) The second condition is that the statement was made by the witness when the matters stated were fresh in his memory but he does not remember them, and cannot reasonably be expected to remember them, well enough to give oral evidence of them in the proceedings.
- (7) The third condition is that—
- (a) the witness claims to be a person against whom an offence has been committed,
  - (b) the offence is one to which the proceedings relate,
  - (c) the statement consists of a complaint made by the witness (whether to a person in authority or not) about conduct which would, if proved, constitute the offence or part of the offence,
  - (d) <sup>F145</sup> .....
  - (e) the complaint was not made as a result of a threat or a promise, and
  - (f) before the statement is adduced the witness gives oral evidence in connection with its subject matter.

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- (8) For the purposes of subsection (7) the fact that the complaint was elicited (for example, by a leading question) is irrelevant unless a threat or a promise was involved.

#### Textual Amendments

**F145** S. 120(7)(d) omitted (1.2.2010) by virtue of and repealed (6.4.2010) by [Coroners and Justice Act 2009](#) (c. 25), [ss. 112](#), [182\(5\)](#), [Sch. 23 Pt. 3](#); [S.I. 2010/145](#), [art. 2\(2\)](#), [Sch.](#); [S.I. 2010/816](#), [art. 2](#), [Sch.](#)

#### Commencement Information

**I75** S. 120 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### Supplementary

#### 121 Additional requirement for admissibility of multiple hearsay

- (1) A hearsay statement is not admissible to prove the fact that an earlier hearsay statement was made unless—
- either of the statements is admissible under section 117, 119 or 120,
  - all parties to the proceedings so agree, or
  - the court is satisfied that the value of the evidence in question, taking into account how reliable the statements appear to be, is so high that the interests of justice require the later statement to be admissible for that purpose.
- (2) In this section “hearsay statement” means a statement, not made in oral evidence, that is relied on as evidence of a matter stated in it.

#### Commencement Information

**I76** S. 121 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 122 Documents produced as exhibits

- (1) This section applies if on a trial before a judge and jury for an offence—
- a statement made in a document is admitted in evidence under section 119 or 120, and
  - the document or a copy of it is produced as an exhibit.
- (2) The exhibit must not accompany the jury when they retire to consider their verdict unless—
- the court considers it appropriate, or
  - all the parties to the proceedings agree that it should accompany the jury.

#### Commencement Information

**I77** S. 122 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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## 123 Capability to make statement

- (1) Nothing in section 116, 119 or 120 makes a statement admissible as evidence if it was made by a person who did not have the required capability at the time when he made the statement.
- (2) Nothing in section 117 makes a statement admissible as evidence if any person who, in order for the requirements of section 117(2) to be satisfied, must at any time have supplied or received the information concerned or created or received the document or part concerned—
  - (a) did not have the required capability at that time, or
  - (b) cannot be identified but cannot reasonably be assumed to have had the required capability at that time.
- (3) For the purposes of this section a person has the required capability if he is capable of—
  - (a) understanding questions put to him about the matters stated, and
  - (b) giving answers to such questions which can be understood.
- (4) Where by reason of this section there is an issue as to whether a person had the required capability when he made a statement—
  - (a) proceedings held for the determination of the issue must take place in the absence of the jury (if there is one);
  - (b) in determining the issue the court may receive expert evidence and evidence from any person to whom the statement in question was made;
  - (c) the burden of proof on the issue lies on the party seeking to adduce the statement, and the standard of proof is the balance of probabilities.

### Commencement Information

**178** S. 123 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 124 Credibility

- (1) This section applies if in criminal proceedings—
  - (a) a statement not made in oral evidence in the proceedings is admitted as evidence of a matter stated, and
  - (b) the maker of the statement does not give oral evidence in connection with the subject matter of the statement.
- (2) In such a case—
  - (a) any evidence which (if he had given such evidence) would have been admissible as relevant to his credibility as a witness is so admissible in the proceedings;
  - (b) evidence may with the court's leave be given of any matter which (if he had given such evidence) could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the cross-examining party;

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*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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- (c) evidence tending to prove that he made (at whatever time) any other statement inconsistent with the statement admitted as evidence is admissible for the purpose of showing that he contradicted himself.
- (3) If as a result of evidence admitted under this section an allegation is made against the maker of a statement, the court may permit a party to lead additional evidence of such description as the court may specify for the purposes of denying or answering the allegation.
- (4) In the case of a statement in a document which is admitted as evidence under section 117 each person who, in order for the statement to be admissible, must have supplied or received the information concerned or created or received the document or part concerned is to be treated as the maker of the statement for the purposes of subsections (1) to (3) above.

#### Commencement Information

**I79** S. 124 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 6 (subject to **art. 2(2)**, Sch. 2)

## 125 Stopping the case where evidence is unconvincing

- (1) If on a defendant's trial before a judge and jury for an offence the court is satisfied at any time after the close of the case for the prosecution that—
  - (a) the case against the defendant is based wholly or partly on a statement not made in oral evidence in the proceedings, and
  - (b) the evidence provided by the statement is so unconvincing that, considering its importance to the case against the defendant, his conviction of the offence would be unsafe,

the court must either direct the jury to acquit the defendant of the offence or, if it considers that there ought to be a retrial, discharge the jury.
- (2) Where—
  - (a) a jury is directed under subsection (1) to acquit a defendant of an offence, and
  - (b) the circumstances are such that, apart from this subsection, the defendant could if acquitted of that offence be found guilty of another offence,

the defendant may not be found guilty of that other offence if the court is satisfied as mentioned in subsection (1) in respect of it.
- (3) If—
  - (a) a jury is required to determine under section 4A(2) of the Criminal Procedure (Insanity) Act 1964 (c. 84) whether a person charged on an indictment with an offence did the act or made the omission charged, and
  - (b) the court is satisfied as mentioned in subsection (1) above at any time after the close of the case for the prosecution that—
    - (i) the case against the defendant is based wholly or partly on a statement not made in oral evidence in the proceedings, and
    - (ii) the evidence provided by the statement is so unconvincing that, considering its importance to the case against the person, a finding that he did the act or made the omission would be unsafe,

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the court must either direct the jury to acquit the defendant of the offence or, if it considers that there ought to be a rehearing, discharge the jury.

- (4) This section does not prejudice any other power a court may have to direct a jury to acquit a person of an offence or to discharge a jury.

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**Commencement Information**

**I80** S. 125 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 6 (subject to art. 2(2), Sch. 2)

## 126 Court's general discretion to exclude evidence

- (1) In criminal proceedings the court may refuse to admit a statement as evidence of a matter stated if—
- (a) the statement was made otherwise than in oral evidence in the proceedings, and
  - (b) the court is satisfied that the case for excluding the statement, taking account of the danger that to admit it would result in undue waste of time, substantially outweighs the case for admitting it, taking account of the value of the evidence.
- (2) Nothing in this Chapter prejudices—
- (a) any power of a court to exclude evidence under section 78 of the Police and Criminal Evidence Act 1984 (c. 60) (exclusion of unfair evidence), or
  - (b) any other power of a court to exclude evidence at its discretion (whether by preventing questions from being put or otherwise).

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**Commencement Information**

**I81** S. 126 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 6 (subject to art. 2(2), Sch. 2)

### *Miscellaneous*

## 127 Expert evidence: preparatory work.

- (1) This section applies if—
- (a) a statement has been prepared for the purposes of criminal proceedings,
  - (b) the person who prepared the statement had or may reasonably be supposed to have had personal knowledge of the matters stated,
  - (c) notice is given under the appropriate rules that another person (the expert) will in evidence given in the proceedings orally or under section 9 of the Criminal Justice Act 1967 (c. 80) base an opinion or inference on the statement, and
  - (d) the notice gives the name of the person who prepared the statement and the nature of the matters stated.
- (2) In evidence given in the proceedings the expert may base an opinion or inference on the statement.

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- (3) If evidence based on the statement is given under subsection (2) the statement is to be treated as evidence of what it states.
- (4) This section does not apply if the court, on an application by a party to the proceedings, orders that it is not in the interests of justice that it should apply.
- (5) The matters to be considered by the court in deciding whether to make an order under subsection (4) include—
- (a) the expense of calling as a witness the person who prepared the statement;
  - (b) whether relevant evidence could be given by that person which could not be given by the expert;
  - (c) whether that person can reasonably be expected to remember the matters stated well enough to give oral evidence of them.
- (6) Subsections (1) to (5) apply to a statement prepared for the purposes of a criminal investigation as they apply to a statement prepared for the purposes of criminal proceedings, and in such a case references to the proceedings are to criminal proceedings arising from the investigation.
- (7) The appropriate rules are [<sup>F146</sup>Criminal Procedure Rules made by virtue of]—
- (a) <sup>F147</sup> . . . section 81 of the Police and Criminal Evidence Act 1984 (advance notice of expert evidence in Crown Court), or
  - (b) <sup>F148</sup> . . . section 20(3) of the Criminal Procedure and Investigations Act 1996 (c. 25) (advance notice of expert evidence in magistrates' courts).

#### Textual Amendments

**F146** Words in s. 127(7) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 50\(a\)](#) (with art. 2(2))

**F147** Word in s. 127(7)(a) omitted (1.9.2004) by virtue of [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 50\(b\)](#) (with art. 2(2))

**F148** Words in s. 127(7)(b) omitted (1.9.2004) by virtue of [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 50\(c\)](#) (with art. 2(2))

#### Commencement Information

**I82** S. 127 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 128 Confessions

- (1) In the Police and Criminal Evidence Act 1984 (c. 60) the following section is inserted after section 76—

### “76A Confessions may be given in evidence for co-accused

- (1) In any proceedings a confession made by an accused person may be given in evidence for another person charged in the same proceedings (a co-accused) in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.

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- (2) If, in any proceedings where a co-accused proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained—
- (a) by oppression of the person who made it; or
  - (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,
- the court shall not allow the confession to be given in evidence for the co-accused except in so far as it is proved to the court on the balance of probabilities that the confession (notwithstanding that it may be true) was not so obtained.
- (3) Before allowing a confession made by an accused person to be given in evidence for a co-accused in any proceedings, the court may of its own motion require the fact that the confession was not obtained as mentioned in subsection (2) above to be proved in the proceedings on the balance of probabilities.
- (4) The fact that a confession is wholly or partly excluded in pursuance of this section shall not affect the admissibility in evidence—
- (a) of any facts discovered as a result of the confession; or
  - (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.
- (5) Evidence that a fact to which this subsection applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.
- (6) Subsection (5) above applies—
- (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this section; and
  - (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.
- (7) In this section “oppression” includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).”
- (2) Subject to subsection (1), nothing in this Chapter makes a confession by a defendant admissible if it would not be admissible under section 76 of the Police and Criminal Evidence Act 1984 (c. 60).
- (3) In subsection (2) “confession” has the meaning given by section 82 of that Act.

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**Commencement Information**

**183** S. 128 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))



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## 129 Representations other than by a person

- (1) Where a representation of any fact—
- (a) is made otherwise than by a person, but
  - (b) depends for its accuracy on information supplied (directly or indirectly) by a person,
- the representation is not admissible in criminal proceedings as evidence of the fact unless it is proved that the information was accurate.
- (2) Subsection (1) does not affect the operation of the presumption that a mechanical device has been properly set or calibrated.

### Commencement Information

**184** S. 129 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 130 Depositions

In Schedule 3 to the Crime and Disorder Act 1998 (c. 37), sub-paragraph (4) of paragraph 5 is omitted (power of the court to overrule an objection to a deposition being read as evidence by virtue of that paragraph).

### Commencement Information

**185** S. 130 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 131 Evidence at retrial

For paragraphs 1 and 1A of Schedule 2 to the Criminal Appeal Act 1968 (c. 19) (oral evidence and use of transcripts etc at retrials under that Act) there is substituted—

### “Evidence

- 1 (1) Evidence given at a retrial must be given orally if it was given orally at the original trial, unless—
- (a) all the parties to the retrial agree otherwise;
  - (b) section 116 of the Criminal Justice Act 2003 applies (admissibility of hearsay evidence where a witness is unavailable); or
  - (c) the witness is unavailable to give evidence, otherwise than as mentioned in subsection (2) of that section, and section 114(1)(d) of that Act applies (admission of hearsay evidence under residual discretion).
- (2) Paragraph 5 of Schedule 3 to the Crime and Disorder Act 1998 (use of depositions) does not apply at a retrial to a deposition read as evidence at the original trial.”



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### Commencement Information

**186** S. 131 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 6 (subject to **art. 2(2)**, Sch. 2)

## General

### 132 Rules of court

- (1) Rules of court may make such provision as appears to the appropriate authority to be necessary or expedient for the purposes of this Chapter; and the appropriate authority is the authority entitled to make the rules.
- (2) The rules may make provision about the procedure to be followed and other conditions to be fulfilled by a party proposing to tender a statement in evidence under any provision of this Chapter.
- (3) The rules may require a party proposing to tender the evidence to serve on each party to the proceedings such notice, and such particulars of or relating to the evidence, as may be prescribed.
- (4) The rules may provide that the evidence is to be treated as admissible by agreement of the parties if—
  - (a) a notice has been served in accordance with provision made under subsection (3), and
  - (b) no counter-notice in the prescribed form objecting to the admission of the evidence has been served by a party.
- (5) If a party proposing to tender evidence fails to comply with a prescribed requirement applicable to it—
  - (a) the evidence is not admissible except with the court’s leave;
  - (b) where leave is given the court or jury may draw such inferences from the failure as appear proper;
  - (c) the failure may be taken into account by the court in considering the exercise of its powers with respect to costs.
- (6) In considering whether or how to exercise any of its powers under subsection (5) the court shall have regard to whether there is any justification for the failure to comply with the requirement.
- (7) A person shall not be convicted of an offence solely on an inference drawn under subsection (5)(b).
- (8) Rules under this section may—
  - (a) limit the application of any provision of the rules to prescribed circumstances;
  - (b) subject any provision of the rules to prescribed exceptions;
  - (c) make different provision for different cases or circumstances.
- (9) Nothing in this section prejudices the generality of any enactment conferring power to make rules of court; and no particular provision of this section prejudices any general provision of it.

[<sup>F149</sup>(10) In this section “prescribed” means prescribed by rules of court]

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### Textual Amendments

**F149** S. 132(10) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), [art. 3](#), [Sch. para. 51](#) (with [art. 2\(2\)](#))

## 133 Proof of statements in documents

Where a statement in a document is admissible as evidence in criminal proceedings, the statement may be proved by producing either—

- (a) the document, or
- (b) (whether or not the document exists) a copy of the document or of the material part of it,

authenticated in whatever way the court may approve.

### Commencement Information

**I87** S. 133 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 134 Interpretation of Chapter 2

(1) In this Chapter—

“copy”, in relation to a document, means anything on to which information recorded in the document has been copied, by whatever means and whether directly or indirectly;

“criminal proceedings” means criminal proceedings in relation to which the strict rules of evidence apply;

“defendant”, in relation to criminal proceedings, means a person charged with an offence in those proceedings;

“document” means anything in which information of any description is recorded;

“oral evidence” includes evidence which, by reason of any disability, disorder or other impairment, a person called as a witness gives in writing or by signs or by way of any device;

“statutory provision” means any provision contained in, or in an instrument made under, this or any other Act, including any Act passed after this Act.

(2) Section 115 (statements and matters stated) contains other general interpretative provisions.

(3) Where a defendant is charged with two or more offences in the same criminal proceedings, this Chapter has effect as if each offence were charged in separate proceedings.

### Commencement Information

**I88** S. 134 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 6](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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### 135 Armed forces

Schedule 7 (hearsay evidence: armed forces) has effect.

#### Commencement Information

**189** S. 135 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 6 (subject to art. 2(2), Sch. 2)

### 136 Repeals etc

In the Criminal Justice Act 1988 (c. 33), the following provisions (which are to some extent superseded by provisions of this Chapter) are repealed—

- (a) Part 2 and Schedule 2 (which relate to documentary evidence);
- (b) in Schedule 13, paragraphs 2 to 5 (which relate to documentary evidence in service courts etc).

#### Commencement Information

**190** S. 136 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 6 (subject to art. 2(2), Sch. 2)

## CHAPTER 3

### MISCELLANEOUS AND SUPPLEMENTAL

PROSPECTIVE

### 137 Evidence by video recording

- (1) This section applies where—
- (a) a person is called as a witness in proceedings for an offence triable only on indictment, or for a prescribed offence triable either way,
  - (b) the person claims to have witnessed (whether visually or in any other way)—
    - (i) events alleged by the prosecution to include conduct constituting the offence or part of the offence, or
    - (ii) events closely connected with such events,
  - (c) he has previously given an account of the events in question (whether in response to questions asked or otherwise),
  - (d) the account was given at a time when those events were fresh in the person's memory (or would have been, assuming the truth of the claim mentioned in paragraph (b)),
  - (e) a video recording was made of the account,
  - (f) the court has made a direction that the recording should be admitted as evidence in chief of the witness, and the direction has not been rescinded, and
  - (g) the recording is played in the proceedings in accordance with the direction.

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- (2) If, or to the extent that, the witness in his oral evidence in the proceedings asserts the truth of the statements made by him in the recorded account, they shall be treated as if made by him in that evidence.
- (3) A direction under subsection (1)(f)—
- (a) may not be made in relation to a recorded account given by the defendant;
  - (b) may be made only if it appears to the court that—
    - (i) the witness’s recollection of the events in question is likely to have been significantly better when he gave the recorded account than it will be when he gives oral evidence in the proceedings, and
    - (ii) it is in the interests of justice for the recording to be admitted, having regard in particular to the matters mentioned in subsection (4).
- (4) Those matters are—
- (a) the interval between the time of the events in question and the time when the recorded account was made;
  - (b) any other factors that might affect the reliability of what the witness said in that account;
  - (c) the quality of the recording;
  - (d) any views of the witness as to whether his evidence in chief should be given orally or by means of the recording.
- (5) For the purposes of subsection (2) it does not matter if the statements in the recorded account were not made on oath.
- (6) In this section “prescribed” means of a description specified in an order made by the Secretary of State.

PROSPECTIVE

### 138 Video evidence: further provisions

<sup>F150</sup>(1) .....

- (2) The reference in subsection (1)(f) of section 137 to the admission of a recording includes a reference to the admission of part of the recording; and references in that section and this one to the video recording or to the witness’s recorded account shall, where appropriate, be read accordingly.
- (3) In considering whether any part of a recording should be not admitted under section 137, the court must consider—
- (a) whether admitting that part would carry a risk of prejudice to the defendant, and
  - (b) if so, whether the interests of justice nevertheless require it to be admitted in view of the desirability of showing the whole, or substantially the whole, of the recorded interview.
- (4) A court may not make a direction under section 137(1)(f) in relation to any proceedings unless—

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- (a) the Secretary of State has notified the court that arrangements can be made, in the area in which it appears to the court that the proceedings will take place, for implementing directions under that section, and
  - (b) the notice has not been withdrawn.
- (5) Nothing in section 137 affects the admissibility of any video recording which would be admissible apart from that section.

#### Textual Amendments

**F150** S. 138(1) repealed (27.6.2011) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 111, 182(5), [Sch. 23 Pt. 3](#) (with s. 180); [S.I. 2011/1452](#), art. 2(c)(i)

### 139 Use of documents to refresh memory

- (1) A person giving oral evidence in criminal proceedings about any matter may, at any stage in the course of doing so, refresh his memory of it from a document made or verified by him at an earlier time if—
- (a) he states in his oral evidence that the document records his recollection of the matter at that earlier time, and
  - (b) his recollection of the matter is likely to have been significantly better at that time than it is at the time of his oral evidence.
- (2) Where—
- (a) a person giving oral evidence in criminal proceedings about any matter has previously given an oral account, of which a sound recording was made, and he states in that evidence that the account represented his recollection of the matter at that time,
  - (b) his recollection of the matter is likely to have been significantly better at the time of the previous account than it is at the time of his oral evidence, and
  - (c) a transcript has been made of the sound recording,
- he may, at any stage in the course of giving his evidence, refresh his memory of the matter from that transcript.

#### Commencement Information

**I91** S. 139 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

### 140 Interpretation of Chapter 3

In this Chapter—

“criminal proceedings” means criminal proceedings in relation to which the strict rules of evidence apply;

“defendant”, in relation to criminal proceedings, means a person charged with an offence in those proceedings;

“document” means anything in which information of any description is recorded, but not including any recording of sounds or moving images;

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“oral evidence” includes evidence which, by reason of any disability, disorder or other impairment, a person called as a witness gives in writing or by signs or by way of any device;

“video recording” means any recording, on any medium, from which a moving image may by any means be produced, and includes the accompanying sound-track.

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**Commencement Information**

**I92** S. 140 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), **art. 2(1)(2)** (subject to [art. 2\(3\)-\(6\)](#))

**141 Saving**

No provision of this Part has effect in relation to criminal proceedings begun before the commencement of that provision.

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**Commencement Information**

**I93** S. 141 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), **art. 2(1)(2)** (subject to [art. 2\(3\)-\(6\)](#))

**PART 12**

SENTENCING

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**Modifications etc. (not altering text)**

- C7** Pt. 12 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 183(4), 383 (as amended (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, Sch. 1 para. 23(2)(b)); [S.I. 2009/812](#), art. 3 (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4
- C8** Pt. 12 (ss. 142-305) modified (4.4.2005) by [The Criminal Justice Act 2003 \(Sentencing\) \(Transitory Provisions\) Order 2005 \(S.I. 2005/643\)](#), art. 3 (as amended (E.W.) (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential and Saving Provisions\) Regulations 2012 \(S.I. 2012/2824\)](#), regs. 1, 3(1) (with reg. 3(2)) and as amended (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), s. 5(2)(3), **Sch. 2 para. 139**; [S.I. 2012/1236](#), reg. 2)

**CHAPTER 1**

GENERAL PROVISIONS ABOUT SENTENCING

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**Modifications etc. (not altering text)**

- C9** Pt. 12 Ch. 1: power to amend conferred (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 4(3)**, 153; [S.I. 2009/3074](#), **art. 2(d)**

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### Matters to be taken into account in sentencing

#### <sup>F151</sup>142 Purposes of sentencing

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##### Textual Amendments

**F151** Ss. 142-154 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

PROSPECTIVE

#### <sup>F151</sup>142APurposes etc. of sentencing: offenders under 18

.....

##### Textual Amendments

**F151** Ss. 142-154 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

#### <sup>F151</sup>143 Determining the seriousness of an offence

.....

##### Textual Amendments

**F151** Ss. 142-154 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

#### <sup>F151</sup>144 Reduction in sentences for guilty pleas

.....

##### Textual Amendments

**F151** Ss. 142-154 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

#### <sup>F151</sup>145 Increase in sentences for racial or religious aggravation

.....

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*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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**Textual Amendments**

**F151** Ss. 142-154 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

**F151 146 Increase in sentences for aggravation related to disability, sexual orientation or transgender identity**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

*General restrictions on community sentences*

**F151 147 Meaning of “community sentence” etc.**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

**F151 148 Restrictions on imposing community sentences**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

**F151 149 Passing of community sentence on offender remanded in custody**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

**F151 150 Community sentence not available where sentence fixed by law etc.**

.....



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**Textual Amendments**

**F151** Ss. 142-154 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

**<sup>F151</sup>150A Community order available only for offences punishable with imprisonment or for persistent offenders previously fined**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

PROSPECTIVE

**<sup>F151</sup>151 Community order or youth rehabilitation order for persistent offender previously fined**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

*General restrictions on discretionary custodial sentences*

**<sup>F151</sup>152 General restrictions on imposing discretionary custodial sentences**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

**<sup>F151</sup>153 Length of discretionary custodial sentences: general provision**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

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PROSPECTIVE

*General limit on magistrates' court's power to impose imprisonment*

**<sup>F151</sup>154 General limit on magistrates' court's power to impose imprisonment**

.....

**Textual Amendments**

**F151** Ss. 142-154 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

**155 Consecutive terms of imprisonment**

- (1) Section 133 of the Magistrates' Courts Act 1980 (consecutive terms of imprisonment) is amended as follows.
- (2) In subsection (1), for [<sup>F152</sup>“the words from “the longest” to “being imposed”] there is substituted “ 65 weeks ”.
- (3) Subsection (2) is omitted.
- (4) In subsection (3) for “the preceding subsections” there is substituted “ subsection (1) above ”.

**Textual Amendments**

**F152** Words in s. 155(2) substituted (14.7.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), [Sch. 2 para. 19\(2\)](#); S.I. 2022/816, regs. 1(2), 3(d)

*Procedural requirements for imposing community sentences and discretionary custodial sentences*

**<sup>F153</sup>156 Pre-sentence reports and other requirements**

.....

**Textual Amendments**

**F153** Ss. 156-166 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

**<sup>F153</sup>157 Additional requirements in case of mentally disordered offender**

.....

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**Textual Amendments**

**F153** Ss. 156-166 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

**F153 158 Meaning of “pre-sentence report”**

.....

.....

**Textual Amendments**

**F153** Ss. 156-166 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

*Disclosure of pre-sentence reports etc*

**F153 159 Disclosure of pre-sentence reports**

.....

.....

**Textual Amendments**

**F153** Ss. 156-166 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

**F153 160 Other reports of local probation boards , providers of probation services and members of youth offending teams**

.....

.....

**Textual Amendments**

**F153** Ss. 156-166 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

*Pre-sentence drug testing*

**F153 161 Pre-sentence drug testing**

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.....

**Textual Amendments**

**F153** Ss. 156-166 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

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### *Surcharges*

#### <sup>F153</sup> **161A Court’s duty to order payment of surcharge**

.....

##### **Textual Amendments**

**F153** Ss. 156-166 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

#### <sup>F153</sup> **161B Amount of surcharge**

.....

##### **Textual Amendments**

**F153** Ss. 156-166 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

### *Fines*

#### <sup>F153</sup> **162 Powers to order statement as to offender’s financial circumstances**

.....

##### **Textual Amendments**

**F153** Ss. 156-166 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

#### <sup>F153</sup> **163 General power of Crown Court to fine offender convicted on indictment**

.....

##### **Textual Amendments**

**F153** Ss. 156-166 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

#### <sup>F153</sup> **164 Fixing of fines**

.....

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**Textual Amendments**

**F153** Ss. 156-166 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

**F153** **165 Remission of fines**

.....

**Textual Amendments**

**F153** Ss. 156-166 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

*Savings for power to mitigate etc*

**F153** **166 Savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders**

.....

**Textual Amendments**

**F153** Ss. 156-166 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

*Sentencing and allocation guidelines*

**167 The Sentencing Guidelines Council**

**F154** .....

**Textual Amendments**

**F154** Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, **Sch. paras. 15, 22(b)**

**168 Sentencing Guidelines Council: supplementary provisions**

**F155** .....

**Textual Amendments**

**F155** Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, **Sch. paras. 15, 22(b)**

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## 169 The Sentencing Advisory Panel

F156 .....

### Textual Amendments

**F156** Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); [S.I. 2010/816](#), [art. 2](#), [Sch. paras. 15, 22\(b\)](#)

## 170 Guidelines relating to sentencing and allocation

F157 .....

### Textual Amendments

**F157** Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); [S.I. 2010/816](#), [art. 2](#), [Sch. paras. 15, 22\(b\)](#)

## 171 Functions of Sentencing Advisory Panel in relation to guidelines

F158 .....

### Textual Amendments

**F158** Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); [S.I. 2010/816](#), [art. 2](#), [Sch. paras. 15, 22\(b\)](#)

## 172 Duty of court to have regard to sentencing guidelines

F159 .....

### Textual Amendments

**F159** Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); [S.I. 2010/816](#), [art. 2](#), [Sch. paras. 15, 22\(b\)](#) (with art. 7(2))

## 173 Annual report by Council

F160 .....

### Textual Amendments

**F160** Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); [S.I. 2010/816](#), [art. 2](#), [Sch. paras. 15, 22\(b\)](#)

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*Duty of court to explain sentence*

**F161 174 Duty to give reasons for and to explain effect of sentence**

.....

**Textual Amendments**

**F161** S. 174 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

*Publication of information by Secretary of State*

**175 Duty to publish information about sentencing**

In section 95 of the Criminal Justice Act 1991 (c. 53) (information for financial and other purposes) in subsection (1) before the “or” at the end of paragraph (a) there is inserted—

- “(aa) enabling such persons to become aware of the relative effectiveness of different sentences—
- (i) in preventing re-offending, and
  - (ii) in promoting public confidence in the criminal justice system;”.

**Commencement Information**

**I94** S. 175 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1](#) para. 7 (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Interpretation of Chapter*

**F162 176 Interpretation of Chapter 1**

.....

**Textual Amendments**

**F162** Ss. 176-180 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

**CHAPTER 2**

**COMMUNITY ORDERS: OFFENDERS AGED 16 OR OVER**

**F162 177 Community orders**

.....

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*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
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**Textual Amendments**  
**F162** Ss. 176-180 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

**<sup>F162</sup>178 Power to provide for court review of community orders**

.....

**Textual Amendments**  
**F162** Ss. 176-180 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

**<sup>F162</sup>179 Breach, revocation or amendment of community order**

.....

**Textual Amendments**  
**F162** Ss. 176-180 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

**<sup>F162</sup>180 Transfer of community orders to Scotland or Northern Ireland**

.....

**Textual Amendments**  
**F162** Ss. 176-180 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

**CHAPTER 3**

[<sup>F163</sup>SUSPENDED SENTENCE ORDERS]

**Textual Amendments**  
**F163** Pt. 12 Ch. 3 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 9 para. 3** (with s. 68(7)); S.I. 2012/2906, art. 2(g)

*Prison sentences of less than 12 months*

**<sup>F164</sup>181 Prison sentences of less than 12 months**

.....



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**Textual Amendments**

**F164** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F164** **182 Licence conditions**

.....

**Textual Amendments**

**F164** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

*Intermittent custody*

**F164** **183 Intermittent custody**

.....

**Textual Amendments**

**F164** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F164** **184 Restrictions on power to make intermittent custody order**

.....

**Textual Amendments**

**F164** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F164** **185 Intermittent custody: licence conditions**

.....

**Textual Amendments**

**F164** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F164** **186 Further provisions relating to intermittent custody**

.....

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**Textual Amendments**

**F164** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

*Further provision about custody plus orders and intermittent custody orders*

**F164 187 Revocation or amendment of order**

.....

**Textual Amendments**

**F164** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F164 188 Transfer of custody plus orders and intermittent custody orders to Scotland or Northern Ireland**

.....

**Textual Amendments**

**F164** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

*Suspended sentences*

**F165 189 Suspended sentences of imprisonment**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 190 Imposition of requirements by suspended sentence order**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

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**F165 191 Power to provide for review of suspended sentence order**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 192 Periodic reviews of suspended sentence order**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 193 Breach, revocation or amendment of suspended sentence order, and effect of further conviction**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 194 Transfer of suspended sentence orders to Scotland or Northern Ireland**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

*Interpretation of Chapter*

**F165 195 Interpretation of Chapter 3**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

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## CHAPTER 4

### FURTHER PROVISIONS ABOUT ORDERS UNDER CHAPTERS 2 AND 3

#### **Modifications etc. (not altering text)**

- C10** Pt. 12 Ch. 4 applied (with modifications) (8.12.2008) by [Children Act 1989 \(c. 41\)](#), [Sch. A1 paras. 1-3](#) (as inserted by the [Children and Adoption Act 2006 \(c. 20\)](#), [ss. 4\(2\), 17](#), [Sch. 1](#)); [S.I. 2008/2870](#), [art. 2\(2\)\(c\)](#) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 18\(12\)](#), [22\(1\)](#) (with [Sch. 7 para. 7](#)); [S.I. 2015/40](#), [art. 2\(p\)](#))
- C11** Pt. 12 Ch. 4 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 178\(3\)\(4\), 196\(1\)](#), [383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- Pt. 12 Ch. 4 extended (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 182\(4\)-\(6\)](#), [383](#) (subject to [s. 183](#)) (as amended (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 16 para. 33\(3\)](#) (with [Sch. 16 para. 35](#)); [S.I. 2013/2981](#), [art. 2\(e\)](#)); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- C12** Pt. 12 Ch. 4 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 201](#), [383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

#### *Introductory*

#### <sup>F165</sup>**196** Meaning of “relevant order” etc

.....

#### **Textual Amendments**

- F165** [Ss. 189-220A](#) 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](#)

#### <sup>F165</sup>**197** Meaning of “the responsible officer”

.....

#### **Textual Amendments**

- F165** [Ss. 189-220A](#) 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](#)

#### <sup>F165</sup>**198** Duties of responsible officer

.....

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**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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**Textual Amendments**

**F165** Ss. 189-220A 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

*Requirements available in case of all offenders*

**F165** **199 Unpaid work requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **200 Obligations of person subject to unpaid work requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **200A Rehabilitation activity requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **201 Activity requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **202 Programme requirement**

.....

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**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 203 Prohibited activity requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 204 Curfew requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 205 Exclusion requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 206 Residence requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 206A Foreign travel prohibition requirement**

.....

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**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **207 Mental health treatment requirement**  
.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **208 Mental health treatment at place other than that specified in order**  
.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **209 Drug rehabilitation requirement**  
.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **210 Drug rehabilitation requirement: provision for review by court**  
.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165** **211 Periodic review of drug rehabilitation requirement**  
.....

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**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 212 Alcohol treatment requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 212A Alcohol abstinence and monitoring requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 213 Supervision requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

*Requirements available only in case of offenders aged under 25*

**F165 214 Attendance centre requirement**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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



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### *Electronic monitoring*

#### **F165 215 Electronic monitoring requirement**

.....

##### **Textual Amendments**

**F165** Ss. 189-220A 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

#### **F165 215A Data from electronic monitoring: code of practice**

.....

##### **Textual Amendments**

**F165** Ss. 189-220A 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

### *Provisions applying to relevant orders generally*

#### **F165 216 Local justice area to be specified in relevant order**

.....

##### **Textual Amendments**

**F165** Ss. 189-220A 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

#### **F165 217 Requirement to avoid conflict with religious beliefs, etc**

.....

##### **Textual Amendments**

**F165** Ss. 189-220A 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

#### **F165 218 Availability of arrangements in local area**

.....

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**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 219 Provision of copies of relevant orders**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 220 Duty of offender to keep in touch with responsible officer**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

**F165 220A Duty to obtain permission before changing residence**

.....

**Textual Amendments**

**F165** Ss. 189-220A 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

*Powers of Secretary of State*

**221 Provision of attendance centres**

- (1) The Secretary of State may continue to provide attendance centres.
- (2) In this Part “attendance centre” means a place at which offenders<sup>F166</sup> ... may be required to attend and be given under supervision appropriate occupation or instruction in pursuance of—
  - (a) attendance centre requirements of relevant orders, or
  - <sup>F167</sup>(aa) attendance centre requirements of youth rehabilitation orders, within [<sup>F168</sup>the meaning given by section 173 of the Sentencing Code],]
  - (b) attendance centre orders under section 60 of [<sup>F169</sup>the PCC(S)A 2000],
  - <sup>F170</sup>(c) default orders under section 300 of this Act, or

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- (d) youth default orders under section 39 of the Criminal Justice and Immigration Act 2008.]
- (3) For the purpose of providing attendance centres, the Secretary of State may make arrangements with any local authority or [<sup>F171</sup>local policing body] for the use of premises of [<sup>F172</sup>that authority or body].
- [<sup>F173</sup>(4) In this section “relevant order” means—
- (a) an order under section 177(1) (community order) or 189(1) (suspended sentence order);
  - (b) a relevant order within the meaning given by section 397 of the Sentencing Code, made in respect of an offence of which the offender was convicted before the day on which paragraph 5 of Schedule 13 to the Police, Crime, Sentencing and Courts Act 2022 came into force.]

#### Textual Amendments

- F166** Words in s. 221(2) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 13 para. 5(2)**; S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))
- F167** S. 221(2)(aa) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 92(b)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiv)**
- F168** Words in s. 221(2)(aa) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 217(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F169** Words in s. 221(2)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 217(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F170** S. 221(2)(c)(d) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 2(2)**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F171** Words in s. 221(3) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 313(a)**; S.I. 2011/3019, art. 3, Sch. 1
- F172** Words in s. 221(3) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 313(b)**; S.I. 2011/3019, art. 3, Sch. 1
- F173** S. 221(4) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 13 para. 5(3)**; S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))

#### Commencement Information

- I95** S. 221 wholly in force at 4.4.2005; s. 221 not in force at Royal Assent, see s. 336(3); s. 221 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 221 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 17 (subject to art. 2(2), Sch. 2)

#### <sup>F174</sup>222 Rules

#### Textual Amendments

- F174** Ss. 222-229 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

#### <sup>F174</sup>223 Power to amend limits

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**Textual Amendments**

**F174** Ss. 222-229 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

**CHAPTER 5**

**DANGEROUS OFFENDERS**

*Interpretation*

**<sup>F174</sup>224** Meaning of “specified offence” etc.

.....

**Textual Amendments**

**F174** Ss. 222-229 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

*Life sentences*

**<sup>F174</sup>224A** Life sentence for second listed offence

.....

**Textual Amendments**

**F174** Ss. 222-229 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

**<sup>F174</sup>225** Life sentence ... for serious offences

.....

**Textual Amendments**

**F174** Ss. 222-229 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

**<sup>F174</sup>226** Detention for life ... for serious offences committed by those under 18

.....

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**Textual Amendments**

**F174** Ss. 222-229 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

*[<sup>F175</sup>Extended sentences]*

**Textual Amendments**

**F175** Cross-heading in Pt. 12 Ch. 5 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 19 para. 18**; S.I. 2012/2906, art. 2(q)

<sup>F174</sup>**226A** **Extended sentence for certain violent, sexual or terrorism offences: persons 18 or over**

.....

**Textual Amendments**

**F174** Ss. 222-229 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

<sup>F174</sup>**226B** **Extended sentence for certain violent, sexual or terrorism offences: persons under 18**

.....

**Textual Amendments**

**F174** Ss. 222-229 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

<sup>F174</sup>**227** **Extended sentence for certain violent or sexual offences: persons 18 or over**

.....

**Textual Amendments**

**F174** Ss. 222-229 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

<sup>F174</sup>**228** **Extended sentence for certain violent or sexual offences: persons under 18**

.....

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**Textual Amendments**

**F174** Ss. 222-229 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

**<sup>F174</sup>229 The assessment of dangerousness**

.....

**Textual Amendments**

**F174** Ss. 222-229 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

**230 Imprisonment or detention for public protection: release on licence**

Schedule 18 (release of prisoners serving sentences of imprisonment or detention for public protection) shall have effect.

**Commencement Information**

**I96** S. 230 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 18](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Supplementary*

**<sup>F176</sup>231 Appeals where previous convictions set aside**

.....

**Textual Amendments**

**F176** Ss. 231-236A 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

**<sup>F176</sup>232 Certificates of convictions for purposes of sections 225 and 227**

.....

**Textual Amendments**

**F176** Ss. 231-236A 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

**<sup>F176</sup>232A Certificates of conviction**

.....

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**Textual Amendments**

**F176** Ss. 231-236A 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

**<sup>F176</sup>233 Offences under service law**

.....

.....

**Textual Amendments**

**F176** Ss. 231-236A 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

**<sup>F176</sup>234 Determination of day when offence committed**

.....

.....

**Textual Amendments**

**F176** Ss. 231-236A 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

**<sup>F176</sup>235 Detention under sections 226, 226B and 228**

.....

.....

**Textual Amendments**

**F176** Ss. 231-236A 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

**<sup>F176</sup>236 Conversion of sentences of detention into sentences of imprisonment**

.....

.....

**Textual Amendments**

**F176** Ss. 231-236A 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

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## CHAPTER 5A

### OTHER OFFENDERS OF PARTICULAR CONCERN

#### <sup>F176</sup>236A Special custodial sentence for certain offenders of particular concern

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##### Textual Amendments

**F176** Ss. 231-236A 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

## CHAPTER 6

### [<sup>F177</sup> RELEASE, LICENCES<sup>F178</sup>, SUPERVISION] AND RECALL ]

##### Textual Amendments

**F177** Pt. 12 Ch. 6 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 16](#); S.I. 2012/2906, art. 2(l)

**F178** Word in Pt. 12 Ch. 6 heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 15](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

##### Modifications etc. (not altering text)

**C13** Pt. 12 Ch. 6 applied to any person serving a sentence for an offence committed before 4 April 2005 (whenever that sentence was or is imposed) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 121\(1\)](#), 151(1); S.I. 2012/2906, art. 2(d)

**C14** Pt. 12 Ch. 6 applied (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 7 para. 2\(a\)](#); S.I. 2015/40, art. 2(x)

**C15** Pt. 12 Ch. 6 modified (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. [245\(1\)\(2\)\(c\)](#), 416(1) (with ss. 2, 245(3), 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2

**C16** Pt. 12 Ch. 6 modified (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. [244\(1\)\(2\)\(c\)](#), 416(1) (with ss. 2, 244(3), 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2

**C17** Pt. 12 Ch. 6 applied (29.6.2021) by 1984 c. 47, [Sch. para. 2\(3B\)](#) (as inserted by [Counter Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(r), [Sch. 11 para. 2](#))

### *Preliminary*

#### 237 Meaning of “fixed-term prisoner” [<sup>F179</sup> etc]

(1) In this Chapter “fixed-term prisoner” means—

- (a) a person serving a sentence of imprisonment for a determinate term, or
- (b) a person serving a determinate sentence of detention under section 91 [<sup>F180</sup> or 96] of [<sup>F181</sup>the PCC(S)A 2000, under] section [<sup>F182</sup>226A, 226B,][<sup>F183</sup>227 ][<sup>F184</sup>, 228 or 236A] of this Act [<sup>F185</sup>or under section 250 [<sup>F186</sup>, 252A], 254, 262, 265, [<sup>F187</sup>266 or 268A] of the Sentencing Code].

[<sup>F188</sup>and “fixed-term sentence” means a sentence falling within paragraph (a) or (b).]



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[<sup>F189</sup>(1B) In this Chapter—

- (a) references to a sentence of imprisonment include such a sentence passed by a service court;
  - [<sup>F190</sup>(aa) references to a sentence of detention under section 262 of the Sentencing Code include a sentence of detention in a young offender institution under section 210B of the Armed Forces Act 2006;]
  - (b) references to a sentence of detention under [<sup>F191</sup>section 91 of the PCC(S)A 2000 or section 250 of the Sentencing Code] include a sentence of detention under section 209 of the Armed Forces Act 2006;
  - [<sup>F192</sup>(ba) references to a sentence under section 226A of this Act [<sup>F193</sup>or section 266 or 279 of the Sentencing Code] include a sentence under that section passed as a result of section 219A of the Armed Forces Act 2006;
  - (bb) references to a sentence under section 226B of this Act [<sup>F194</sup>or section 254 of the Sentencing Code] include a sentence under that section passed as a result of section 221A of the Armed Forces Act 2006;]
  - (c) references to a sentence under section 227 of this Act include a sentence under that section passed as a result of section 220 of the Armed Forces Act 2006 [<sup>F195</sup>or section 240A]; <sup>F196</sup>...
  - (d) references to a sentence under section 228 of this Act include a sentence under that section passed as a result of section 222 of that Act<sup>F197</sup>, and
  - (e) references to a sentence under section 236A of this Act [<sup>F198</sup>or section 265 or 278 of the Sentencing Code] include a sentence under that section passed as a result of section 224A of that Act.]
- (1C) Nothing in subsection (1B) has the effect that [<sup>F199</sup>section 240ZA] or 265 [<sup>F200</sup>of this Act or section 225 of the Sentencing Code] (provision equivalent to which is made by the Armed Forces Act 2006) [<sup>F201</sup>or section 240A] applies to a service court.]
- (2) In this Chapter, unless the context otherwise requires, “prisoner” includes a person serving a sentence falling within subsection (1)(b); and “prison” includes any place where a person serving such a sentence is liable to be detained.
- [<sup>F202</sup>(3) In this Chapter, references to a sentence of detention under section 96 of [<sup>F203</sup>the PCC(S)A 2000, under] section [<sup>F204</sup>226A][<sup>F205</sup>, 227 or 236A] of this Act [<sup>F206</sup>or under section 262, 265 [<sup>F207</sup>, 266 or 268A] of the Sentencing Code] are references to a sentence of detention in a young offender institution.]

#### Textual Amendments

- F179** Word in s. 237 heading inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 219](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F180** Words in s. 237(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. [117\(2\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, [art. 2\(d\)](#)
- F181** Words in s. 237(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 218\(2\)\(a\)](#) (with Sch. 27); S.I. 2020/1236, [reg. 2](#)
- F182** Words in s. 237(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 2\(2\)](#); S.I. 2012/2906, [art. 2\(r\)](#)
- F183** Words in s. 237(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. [117\(2\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, [art. 2\(d\)](#)
- F184** Words in s. 237(1)(b) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 15\(2\)](#); S.I. 2015/778, [art. 3](#), [Sch. 1 para. 72](#)

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- F185** Words in s. 237(1)(b) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F186** Word in s. 237(1)(b) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(2)**
- F187** Words in s. 237(1)(b) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(2)(a)**
- F188** Words in s. 237(1) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 2(3)**, 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(b)
- F189** S. 237(1B)(1C) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), **ss. 378(1)**, 383, **Sch. 16 para. 219**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F190** S. 237(1B)(aa) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(aa), **Sch. 21 para. 12**
- F191** Words in s. 237(1B)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F192** S. 237(1B)(ba)(bb) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 22 para. 21**; S.I. 2012/2906, art. 2(t)
- F193** Words in s. 237(1B)(ba) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F194** Words in s. 237(1B)(bb) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(3)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F195** Words in s. 237(1B) inserted (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 21(2)**, 153; S.I. 2009/2606, **art. 3(a)**
- F196** Word in s. 237(1B)(c) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 15(3)(a)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F197** S. 237(1B)(e) and word inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 15(3)(b)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F198** Words in s. 237(1B)(e) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(3)(d)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F199** Words in s. 237(1C) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(2)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F200** Words in s. 237(1C) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F201** Words in s. 237(1C) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(2)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F202** S. 237(3) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(3)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F203** Words in s. 237(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(5)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F204** Words in s. 237(3) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 2(3)**; S.I. 2012/2906, art. 2(r)
- F205** Words in s. 237(3) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 15(4)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F206** Words in s. 237(3) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(5)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F207** Words in s. 237(3) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(2)(b)**

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**Modifications etc. (not altering text)**

- C18** S. 237(1B) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, **Sch. 1 para. 53(8)**

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### Commencement Information

**I97** S. 237 wholly in force at 4.4.2005; s. 237 not in force at Royal Assent, see s. 336(3); s. 237 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.; s. 237 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

### *Power of court to recommend licence conditions*

## <sup>F208</sup>238 Power of court to recommend licence conditions for certain prisoners

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### Textual Amendments

**F208** S. 238 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

## 239 The Parole Board

- (1) The Parole Board is to continue to be, by that name, a body corporate and as such is—
  - (a) to be constituted in accordance with this Chapter, and
  - (b) to have the functions conferred on it by this Chapter in respect of fixed-term prisoners and by Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (c. 43) (in this Chapter referred to as “the 1997 Act”) in respect of life prisoners within the meaning of that Chapter.
- (2) It is the duty of the Board to advise the Secretary of State with respect to any matter referred to it by him which is to do with the early release or recall of prisoners.
- (3) The Board must, in dealing with cases as respects which it makes recommendations under this Chapter or under Chapter 2 of Part 2 of the 1997 Act, consider—
  - (a) any documents given to it by the Secretary of State, and
  - (b) any other oral or written information obtained by it;and if in any particular case the Board thinks it necessary to interview the person to whom the case relates before reaching a decision, the Board may authorise one of its members to interview him and must consider the report of the interview made by that member.
- (4) The Board must deal with cases as respects which it gives directions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act on consideration of all such evidence as may be adduced before it.
- (5) Without prejudice to subsections (3) and (4), the Secretary of State may make rules with respect to the proceedings of the Board, including proceedings authorising cases to be dealt with by a prescribed number of its members or requiring cases to be dealt with at prescribed times.

[<sup>F209</sup>(5A) Rules under subsection (5) may, in particular, make provision—

- (a) requiring or permitting the Board to make provisional decisions;
- (b) about the circumstances—
  - (i) in which the Board must or may reconsider such decisions;

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- (ii) in which such decisions become final;
  - (c) conferring power on the Board to set aside a decision or direction that is within subsection (5B),
- and any such provision may relate to cases referred to the Board under this Chapter or under Chapter 2 of Part 2 of the 1997 Act.
- (5B) The following are within this subsection—
- (a) a direction given by the Board for, or a decision made by it not to direct, the release of a prisoner which the Board determines it would not have given or made but for an error of law or fact, or
  - (b) a direction given by the Board for the release of a prisoner which the Board determines it would not have given if—
    - (i) information that was not available to the Board when the direction was given had been so available, or
    - (ii) a change in circumstances relating to the prisoner that occurred after the direction was given had occurred before it was given.
- (5C) Provision made by virtue of subsection (5A)(c)—
- (a) may not confer power on the Board to set aside a direction for the release of a prisoner at any time when the prisoner has already been released pursuant to that direction, but
  - (b) may make provision for the suspension of any requirement under this Chapter or under Chapter 2 of Part 2 of the 1997 Act for the Secretary of State to give effect to a direction of the Board to release a prisoner, pending consideration by the Board as to whether to set it aside.]
- (6) The Secretary of State may also give to the Board directions as to the matters to be taken into account by it in discharging any functions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act; and in giving any such directions the Secretary of State must have regard to—
- (a) the need to protect the public from serious harm from offenders, and
  - (b) the desirability of preventing the commission by them of further offences and of securing their rehabilitation.
- (7) Schedule 19 shall have effect with respect to the Board.

#### **Textual Amendments**

**F209** S. 239(5A)-(5C) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 133**, 208(1); [S.I. 2022/520](#), **reg. 5(o)**

#### **Commencement Information**

**I98** S. 239 wholly in force at 4.4.2005; s. 239 not in force at Royal Assent, see s. 336(3); s. 239 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2**, **Sch.**; s. 239(5)(6) in force at 7.3.2005 by [S.I. 2005/373](#), **art. 2**; s. 239 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 19** (subject to [art. 2\(2\)](#), **Sch. 2**)

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*Effect of remand in custody [F210 or on bail subject to certain types of condition]*

**Textual Amendments**

**F210** Words in s. 240 cross-heading inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008](#) (c. 4), **ss. 21(3)**, 153; S.I. 2008/2712, art. 2, Sch. para. 1 (subject to arts. 3, 4)

**F211 240 Crediting of periods of remand in custody: terms of imprisonment and detention**

**Textual Amendments**

**F211** S. 240 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 108(1)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

**[F212 240Z Time remanded in custody to count as time served: terms of imprisonment  
[F213 or detention and detention and training orders]**

(1) This section applies where—

- (a) an offender is serving a term of imprisonment in respect of an offence, and
- (b) the offender has been remanded in custody (within the meaning given by section 242) in connection with the offence or a related offence.

[ This section also applies where—

- F214**(1A) (a) a court, on or after the day on which Schedule 16 to the Police, Crime, Sentencing and Courts Act 2022 came into force, makes a detention and training order in respect of an offender for an offence, and
- (b) the offender concerned has been remanded in custody in connection with the offence or a related offence.

(1B) In this section any reference to a “sentence”, in relation to an offender, is to—

- (a) a term of imprisonment being served by the offender as mentioned in subsection (1)(a), or
- (b) a detention and training order made in respect of the offender as mentioned in subsection (1A)(a).]

(2) It is immaterial for [F215 the purposes of subsection (1)(b) or (1A)(b)] whether, for all or part of the period during which the offender was remanded in custody, the offender was also remanded in custody in connection with other offences (but see subsection (5)).

(3) The number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by the offender as part of the sentence.

But this is subject to subsections (4) to (6).

(4) If, on any day on which the offender was remanded in custody, the offender was also detained in connection with any other matter, that day is not to count as time served.

(5) A day counts as time served—

- (a) in relation to only one sentence, and

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- (b) only once in relation to that sentence.
- (6) A day is not to count as time served as part of any <sup>F216</sup>automatic release period served by the offender] (see section 255B(1)).
- [ Where a court has made a declaration under section 327 of the Sentencing Code in <sup>F217</sup>(6A) relation to the offender in respect of the offence, this section applies to days specified under subsection (3) of that section as if they were days for which the offender was remanded in custody in connection with the offence or a related offence.]
- (7) For the purposes of this section a suspended sentence—
- (a) is to be treated as a sentence of imprisonment when it takes effect under <sup>F218</sup>paragraph 13(1)(a) or (b) of Schedule 16 to the Sentencing Code], and
  - (b) is to be treated as being imposed by the order under which it takes effect.
- (8) In this section “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.
- <sup>F219</sup>(8A) Subsection (9) applies in relation to an offender who is sentenced to two or more consecutive sentences or sentences which are wholly or partly concurrent if—
- (a) the sentences were imposed on the same occasion, or
  - (b) where they were imposed on different occasions, the offender has not been released during the period beginning with the first and ending with the last of those occasions.
- (9) For the purposes of subsections (3) and (5), the sentences are to be treated as a single sentence.]
- (10) The reference in subsection (4) to detention in connection with any other matter does not include remand in custody in connection with another offence but includes—
- (a) detention pursuant to any custodial sentence;
  - (b) committal in default of payment of any sum of money;
  - (c) committal for want of sufficient distress to satisfy any sum of money;
  - (d) committal for failure to do or abstain from doing anything required to be done or left undone.
- (11) This section applies to a determinate sentence of detention under section 91 or 96 <sup>F220</sup>of the PCC(S)A 2000, under section 250, <sup>F221</sup>[252A,] 254, 262, 265 <sup>F222</sup>, 266 or 268A] of the Sentencing Code or under] section <sup>F223</sup>[226A, 226B,] 227<sup>F224</sup>, 228 or 236A] of this Act as it applies to an equivalent sentence of imprisonment.]

#### Textual Amendments

- F212** S. 240ZA inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 108(2)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F213** Words in s. 240ZA heading substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(5)(s), **Sch. 16 para. 2(2)**
- F214** S. 240ZA(1A)(1B) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(5)(s), **Sch. 16 para. 2(3)**
- F215** Words in s. 240ZA(2) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(5)(s), **Sch. 16 para. 2(4)**
- F216** Words in s. 240ZA(6) substituted (1.2.2015) by [Offender Rehabilitation Act 2014](#) (c. 11), **ss. 9(6)**, 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)



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- F217** S. 240ZA(6A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 219(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F218** Words in s. 240ZA(7)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 219(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F219** S. 240ZA(8A)(9) substituted for s. 240ZA(9) (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), **Sch. 16 para. 2(5)**
- F220** Words in s. 240ZA(11) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 219(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F221** Word in s. 240ZA(11) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(3)**
- F222** Words in s. 240ZA(11) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(3)**
- F223** Words in s. 240ZA(11) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 4**; S.I. 2012/2906, art. 2(r)
- F224** Words in s. 240ZA(11) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 16**; S.I. 2015/778, art. 3, Sch. 1 para. 72

[<sup>F225</sup>240A<sup>F226</sup> **Time remanded on bail to count towards time served]: terms of imprisonment [**<sup>F227</sup> **or detention and detention and training orders]**

(1) [<sup>F228</sup>Subsection (2) applies] where—

- (a) a court sentences an offender to imprisonment for a term in respect of an offence [<sup>F229</sup>of which the offender was convicted before 1 December 2020]<sup>F230</sup> ... ,
- (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
- (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition (“the relevant conditions”).

(2) Subject to [<sup>F231</sup>subsections (3A) and (3B)], the court must direct that the credit period is to count as time served by the offender as part of the sentence.

<sup>F232</sup>[<sup>F233</sup>(3) .....

[<sup>F234</sup>(3A) Subsection (3ZB) applies where—

- (a) an offender is serving a term of imprisonment in respect of an offence, and
- (b) the court has made a declaration under section 325 of the Sentencing Code specifying a credit period in relation to the sentence.

[ Subsection (3ZB) also applies where—

- <sup>F235</sup>(3ZAA) (a) a court, on or after the day on which Schedule 16 to the Police, Crime, Sentencing and Courts Act 2022 came into force, makes a detention and training order in respect of an offender for an offence, and
- (b) the court has made a declaration under section 325 of the Sentencing Code specifying a credit period in relation to the order.

(3ZAB) In this section any reference to a “sentence”, in relation to an offender, is to—

- (a) a term of imprisonment being served by the offender as mentioned in subsection (3ZA)(a), or
- (b) a detention and training order made in respect of the offender as mentioned in subsection (3ZAA)(a).]

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(3ZB) Subject to subsections (3A) and (3B), the credit period is to count as time served by the offender as part of the sentence.]

(3A) A day of the credit period counts as time served—

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

(3B) A day of the credit period is not to count as time served as part of any [F236automatic release period served by the offender] (see section 255B(1)).]

F237(8) .....

F238(9) .....

F238(10) .....

(11) [F239Subsections (7) to (9) and (11) of section 240ZA] apply for the purposes of this section as they apply for the purposes of that section but as if—

- (a) in subsection (7)—
  - (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of [F240the PCC(S)A 2000] relates;
  - (ii) in paragraph (a) after “Schedule 12” there were inserted or section 119(1)(a) or (b) of [F241the PCC(S)A 2000]; and
- (b) [F242; in subsection (9) the references to subsections (3) and (5) of section 240ZA are] to be read as a reference to [F243subsections (2) and (3ZB)] of this section and, in paragraph (b), after “Chapter” there were inserted or Part 2 of the Criminal Justice Act 1991.

(12) In this section—

[F244“curfew requirement” means a requirement (however described) to remain at one or more specified places for a specified number of hours in any given day, provided that the requirement is imposed by a court or the Secretary of State and arises as a result of a conviction;]

“electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person's compliance with a qualifying curfew condition;

“qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; F245 ...

F245 ..... ]

**Textual Amendments**

- F225** S. 240A inserted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 21(4), 153; S.I. 2008/2712, art. 2, Sch. para. 1 (subject to arts. 3, 4)
- F226** Words in s. 240A heading substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 109(8), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F227** Words in s. 240A heading substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), Sch. 16 para. 3(2)
- F228** Words in s. 240A(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 220(2)(a) (with Sch. 27); S.I. 2020/1236, reg. 2



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- F229** Words in s. 240A(1)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 220(2)(b)** (with Sch. 27) (as amended by S.I. 2020/1236, regs. 1, 4(7)(b)); S.I. 2020/1236, reg. 2
- F230** Words in s. 240A(1)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 14**; S.I. 2012/2906, art. 2(n)
- F231** Words in s. 240A(2) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 109(2)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F232** S. 240A(3) 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
- F233** S. 240A(3)-(3B) substituted for s. 240A(3)-(8) (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 109(3)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F234** S. 240A(3ZA)(3ZB) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 220(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F235** S. 240A(3ZAA)(3ZAB) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), **Sch. 16 para. 3(3)**
- F236** Words in s. 240A(3B) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 9(7)**, 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F237** S. 240A(8) 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
- F238** S. 240A(9)(10) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 109(5)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F239** Words in s. 240A(11) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 109(6)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F240** Words in s. 240A(11)(a)(i) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 220(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F241** Words in s. 240A(11)(a)(ii) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 220(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F242** Words in s. 240A(11)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 109(6)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F243** Words in s. 240A(11)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 220(5)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F244** Words in s. 240A(12) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 109(7)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F245** Words in s. 240A(12) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 109(7)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

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**Modifications etc. (not altering text)**

- C19** S. 240A modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1**, 5(2)(3); S.I. 2012/1236, reg. 2
- C20** S. 240A applied (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 325(2)**, 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2
- C21** S. 240A(2) excluded (3.11.2008) by The Remand on Bail (Disapplication of Credit Period) Rules 2008 (S.I. 2008/2793), **art. 2**
- C22** S. 240A(2) excluded (3.11.2008) by The Remand on Bail (Disapplication of Credit Period) Rules 2008 (S.I. 2008/2793), **art. 3**
- C23** S. 240A(2) excluded (3.11.2008) by The Remand on Bail (Disapplication of Credit Period) Rules 2008 (S.I. 2008/2793), **art. 4**

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**241 Effect of [F246 section 240ZA or direction under section 240A][F247 or under section 325 of the Sentencing Code] on release on licence**

(1) In determining for the purposes of this Chapter F248 ... whether a person [F249 to whom section 240ZA applies or a direction under section 240A ][F250 or under section 325 of the Sentencing Code] relates —

(a) has served, or would (but for his release) have served, a particular proportion of his sentence, or

(b) has served a particular period,

the number of days [F251 specified in section 240ZA or in the direction under section 240A][F252 or under section 325 of the Sentencing Code] are to be treated as having been served by him as part of that sentence or period.

[F253(1A) In subsection (1) the reference to [F254 section 240ZA includes] section 246 of the Armed Forces Act 2006.]

F255(2) .....

**Textual Amendments**

- F246** Words in s. 241 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(6)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F247** Words in s. 241 heading inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 221(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F248** Words in s. 241(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 20(a)**; S.I. 2012/2906, art. 2(h)
- F249** Words in s. 241(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(4)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F250** Words in s. 241(1) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 221(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F251** Words in s. 241(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(4)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F252** Words in s. 241(1) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 221(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F253** S. 241(1A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c.52\)](#), **ss. 378(1)**, 383, **Sch. 16 para. 220**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F254** Words in s. 241(1A) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(5)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F255** S. 241(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 20(b)**; S.I. 2012/2906, art. 2(h)

**Modifications etc. (not altering text)**

- C24** S. 241 modified (26.1.2004) by [The Intermittent Custody \(Transitory Provisions\) Order 2003 \(S.I. 2003/3283\)](#), **art. 3**

**Commencement Information**

- I99** S. 241 wholly in force 4.4.2005; s. 241 not in force at Royal Assent, see s. 336(3); s. 241 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2**, **Sch.**; s. 241 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 19** (subject to **art. 2(2)**, **Sch. 2**)

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## 242 Interpretation of [F256sections 240ZA][F257, 240A] and 241

- (1) For the purposes of [F256sections 240ZA][F257, 240A] and 241, the definition of “sentence of imprisonment” in section 305 applies as if for the words from the beginning of the definition to the end of paragraph (a) there were substituted—

““sentence of imprisonment” does not include a committal—

- (a) in default of payment of any sum of money, other than one adjudged to be paid on a conviction,”;

and references in those sections to sentencing an offender to imprisonment, and to an offender’s sentence, are to be read accordingly.

- (2) References in [F256sections 240ZA] and 241 to an offender’s being remanded in custody are references to his being—
- (a) remanded in or committed to custody by order of a court,
  - (b) remanded [F258to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012], or
  - (c) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983 (c. 20).

- [F259(3) In sections 240ZA and 240A, “detention and training order” has the meaning given by section 233 of the Sentencing Code.]

F260(3) .....

### Textual Amendments

- F256** Words in s. 242 substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(7), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F257** Words in s. 242 inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 21(6), 153**; S.I. 2008/2712, **art. 2**, [Sch. para. 1](#) (subject to arts. 3, 4)
- F258** Words in s. 242(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 12 para. 51(a)**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))
- F259** S. 242(3) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(s), **Sch. 16 para. 4**
- F260** S. 242(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 12 para. 51(b)**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

### Modifications etc. (not altering text)

- C25** S. 242(2) applied (1.12.2008) by [The Criminal Justice Act 1988 \(c. 33\)](#), s. 133B(8) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 61(7), 153**; S.I. 2008/2993, **art. 2** (subject to art. 3))
- C26** S. 242(2)(b) modification to saving for effects of 2012 c. 10, [Sch. 12 para. 51\(a\)](#) by S.I. 2012/2906, art. 7(2)(3) (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), s. 5(2)(3), **Sch. 2 para. 138**; S.I. 2012/1236, [reg. 2](#)
- C27** S. 242(3) modification to saving for effects of 2012 c. 10, [Sch. 12 para. 51\(b\)](#) by S.I. 2012/2906, art. 7(2)(3) (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), s. 5(2)(3), **Sch. 2 para. 138**; S.I. 2012/1236, [reg. 2](#)

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### Commencement Information

**I100** S. 242 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

## 243 Persons extradited to the United Kingdom

- (1) A fixed-term prisoner is an extradited prisoner for the purposes of this section if—
- (a) he was tried for the offence in respect of which his sentence was imposed [<sup>F261</sup>or he received that sentence]—
    - (i) after having been extradited to the United Kingdom, and
    - (ii) without having first been restored or had an opportunity of leaving the United Kingdom, and
  - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a) [<sup>F262</sup>, and
  - (c) the court has specified under section 327(3) of the Sentencing Code the number of days for which the prisoner was so kept in custody.]

<sup>F263</sup> [<sup>F264</sup>(2) . . . . .

(2A) Section 240ZA applies to days specified under [<sup>F265</sup>section 327(3) of the Sentencing Code] as if they were days for which the prisoner was remanded in custody in connection with the offence or a related offence.]

<sup>F266</sup>(3) . . . . .

### Textual Amendments

- F261** Words in s. 243(1) inserted (15.1.2007) by **Police and Justice Act 2006 (c. 48)**, ss. 42, 53, **Sch. 13 para. 31**; S.I. 2006/3364, **art. 2**
- F262** S. 243(1)(c) and word inserted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 222(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F263** S. 243(2) omitted (1.12.2020) by virtue of **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 222(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F264** S. 243(2)(2A) substituted for s. 243(2) (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, **ss. 110(8)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F265** Words in s. 243(2A) substituted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 222(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F266** S. 243(3) repealed (27.7.2004) by **The Extradition Act 2003 (Repeals) Order 2004 (S.I. 2004/1897)**, **art. 3**

### Modifications etc. (not altering text)

**C28** S. 243 applied (15.1.2007) by **Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)**, s. 101(12A) (as inserted by **Police and Justice Act 2006 (c. 48)**, ss. 42, 53, **Sch. 13 para. 32**; S.I. 2006/3364, **art. 2**)

### Commencement Information

**I101** S. 243 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

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## *[<sup>F267</sup>Unconditional release*

### Textual Amendments

**F267** S. 243A and cross-heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 111(1), 151(1)** (with [Sch. 15](#)); [S.I. 2012/2906](#), art. 2(d)

### 243A Duty to release [<sup>F268</sup>certain] prisoners serving less than 12 months

[<sup>F269</sup>(1) This section applies to a fixed-term prisoner if—

- (a) the prisoner is serving a sentence which is for a term of 1 day, or
- (b) the prisoner—
  - (i) is serving a sentence which is for a term of less than 12 months, and
  - (ii) is aged under 18 on the last day of the requisite custodial period.

(1A) This section also applies to a fixed-term prisoner if—

- (a) the prisoner is serving a sentence which is for a term of less than 12 months, and
- (b) the sentence was imposed in respect of an offence committed before the day on which section 1 of the Offender Rehabilitation Act 2014 came into force.]

[ But this section does not apply to a prisoner to whom section 247A applies.]

<sup>F270</sup>(1B)

(2) As soon as a prisoner to whom this section applies has served the requisite custodial period for the purposes of this section, it is the duty of the Secretary of State to release that person unconditionally.

[ Subsection (2) does not apply if—

<sup>F271</sup>(2A) (a) the prisoner’s case has been referred to the Board under section [244ZB](#), or  
(b) a notice given to the prisoner under subsection (4) of that section is in force.]

(3) For the purposes of this section “the requisite custodial period” is—

- (a) [<sup>F272</sup>in relation to a person serving one sentence], one-half of the sentence, and
- (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [<sup>F273</sup>264(2B) or (2E)].

(4) This section is subject to—

- (a) section 256B (supervision of young offenders after release), and
- (b) paragraph 8 of Schedule 20B (transitional cases).]

### Textual Amendments

**F268** Word in s. 243A heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 16** (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(u)

**F269** S. 243A(1)(1A) substituted for s. 243A(1) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 1, 22(1)** (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(a)

**F270** S. 243A(1B) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 2(2), 10(4)**

**F271** S. 243A(2A) inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 132(2), 208(4)(p)**

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- F272** Words in s. 243A(3)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 17](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F273** Words in s. 243A(3) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 144\(3\), 208\(5\)\(p\)](#)

**Modifications etc. (not altering text)**

- C29** S. 243A applied by [Crime \(Sentences\) Act 1997 \(c. 43\), Sch. 1 paras. 8\(2\)\(a\), 9\(2\)\(a\)](#) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 2](#); S.I. 2012/2906, art. 2(l))
- C30** S. 243A excluded by [International Criminal Court Act 2001 \(c. 17\), Sch. 7 para. 3\(1\)](#) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 4](#); S.I. 2012/2906, art. 2(l))

*Release on licence*

**244 Duty to release prisoners** <sup>F274</sup> **not subject to special provision for release**

- (1) As soon as a fixed-term prisoner, other than a prisoner to whom section <sup>F275</sup>243A<sup>F276</sup>, <sup>F277</sup>244ZA, <sup>F278</sup>244A, <sup>F279</sup>246A, 247 or 247A applies, has served the requisite custodial period <sup>F280</sup> for the purposes of this section, it is the duty of the Secretary of State to release him on licence under this section.

<sup>F281</sup>(1ZA) Subsection (1) does not apply if—

- (a) the prisoner’s case has been referred to the Board under section 244ZB, or  
(b) a notice given to the prisoner under subsection (4) of that section is in force.]

<sup>F282</sup>(1A) Subsection (1) does not apply if the prisoner has been released on licence under section 246 <sup>F283</sup> or 248] and recalled under section 254 (provision for the release of such persons being made by sections 255B and 255C).]

<sup>F284</sup>(2) .....

(3) <sup>F285</sup>For the purposes of this section] “the requisite custodial period” means—

- (a) <sup>F286</sup> in relation to a prisoner serving one sentence], one-half of his sentence,  
<sup>F287</sup>(b) .....  
<sup>F287</sup>(c) .....  
(d) in relation to a person serving two or more concurrent or consecutive sentences <sup>F288</sup> ..., the period determined under sections 263(2) and <sup>F289</sup>264(2B) or (2E)].

<sup>F290</sup>(4) This section is subject to paragraphs 5, 6, 8, 25 and 28 of Schedule 20B (transitional cases).]

**Textual Amendments**

- F274** Words in s. 244 heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 130\(2\)\(a\), 208\(5\)\(m\)](#)
- F275** Words in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 6\(2\)\(a\)](#); S.I. 2012/2906, art. 2(l)
- F276** Word in s. 244(1) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\), Sch. 1 para. 5](#); S.I. 2015/778, art. 3, Sch. 1 para. 72



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- F277** Word in s. 244(1) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 130(2)(b), 208(5)(m)**
- F278** Word in s. 244(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 125(2), 151(1)**; S.I. 2012/2906, art. 2(e)
- F279** Words in s. 244(1) substituted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 2(3), 10(4)**
- F280** Words in s. 244(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 6(2)(b)**; S.I. 2012/2906, art. 2(1)
- F281** S. 244(1ZA) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 132(3), 208(4)(p)**
- F282** S. 244(1A) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 114(2), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F283** Words in s. 244(1A) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 9(2), 22(1)** (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F284** S. 244(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 21(2)**; S.I. 2012/2906, art. 2(h)
- F285** Words in s. 244(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 6(3)(a)**; S.I. 2012/2906, art. 2(1)
- F286** Words in s. 244(3)(a) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 18** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F287** S. 244(3)(b)(c) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 21(3)(a)**; S.I. 2012/2906, art. 2(h); S.I. 2012/2906, art. 2(h)
- F288** Words in s. 244(3)(d) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 21(3)(b)**; S.I. 2012/2906, art. 2(h)
- F289** Words in s. 244(3)(d) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(4), 208(5)(p)**
- F290** S. 244(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 2**; S.I. 2012/2906, art. 2(o)

#### Modifications etc. (not altering text)

- C31** S. 244(3)(a) modified (1.4.2020) by The Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 (S.I. 2020/158), arts. 1, 3 (with art. 5)

#### Commencement Information

- I102** S. 244 partly in force; s. 244 not in force at Royal Assent, see s. 336(3); s. 244(1)(2)(3)(c)(d) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 244(1)(2)(3)(a)(d) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2)

### [<sup>F291</sup>244ZA] Release on licence of certain violent or sexual offenders

- (1) As soon as a fixed-term prisoner to whom this section applies has served the requisite custodial period for the purposes of this section, it is the duty of the Secretary of State to release the prisoner on licence under this section.
- (2) This section applies to a prisoner who—
  - (a) is serving a fixed-term sentence within subsection (4), (5) or (6),
  - (b) is not a prisoner to whom section 244A, 246A or 247A applies, and
  - (c) has not been released on licence (provision for the release of persons recalled under section 254 being made by sections 255B and 255C).
- (3) Subsection (1) does not apply if—
  - (a) the prisoner's case has been referred to the Board under section 244ZB, or

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- (b) a notice given to the prisoner under subsection (4) of that section is in force.
- (4) A fixed-term sentence is within this subsection if it—
- (a) is a sentence of—
    - (i) imprisonment, or
    - (ii) detention under section 96 of the PCC(S)A 2000 or section 262 of the Sentencing Code,
  - (b) is for a term of 7 years or more,
  - (c) was imposed on or after 1 April 2020, and
  - (d) was imposed in respect of an offence—
    - (i) that is specified in Part 1 or 2 of Schedule 15, and
    - (ii) for which a sentence of life imprisonment could have been imposed (in the case of an offender aged 21 or over) at the time when the actual sentence was imposed.
- (5) A fixed-term sentence is within this subsection if it—
- (a) is a sentence of imprisonment or a sentence of detention under section 262 of the Sentencing Code,
  - (b) is for a term of at least 4 years but less than 7 years,
  - (c) was imposed on or after the day on which section 130 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
  - (d) was imposed in respect of an offence within subsection (7).
- (6) A fixed-term sentence is within this subsection if it—
- (a) is a sentence of detention under section 250 of the Sentencing Code,
  - (b) is for a term of 7 years or more,
  - (c) was imposed on or after the day on which section 130 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
  - (d) was imposed in respect of an offence within subsection (7).
- (7) An offence is within this subsection if—
- (a) it is specified in any of the following paragraphs of Part 1 of Schedule 15—
    - (i) paragraph 1 (manslaughter);
    - (ii) paragraph 4 (soliciting murder);
    - (iii) paragraph 6 (wounding with intent to cause grievous bodily harm);
    - (iv) paragraph 64 (ancillary offences), so far as it relates to an offence listed in paragraph 1, 4 or 6;
    - (v) paragraph 65 (inchoate offences in relation to murder), or
  - (b) it is an offence—
    - (i) that is specified in Part 2 of that Schedule (sexual offences), and
    - (ii) for which a sentence of life imprisonment could have been imposed (in the case of an offender aged 21 or over) at the time when the actual sentence was imposed.
- (8) For the purposes of this section “the requisite custodial period” means—
- (a) in relation to a prisoner serving one sentence, two-thirds of the prisoner’s sentence, and
  - (b) in relation to a prisoner serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2B) or (2E).]



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### Textual Amendments

**F291** S. 244ZA inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 130(3), 208(5)(m)

## [<sup>F292</sup>244ZB] **Referral of high-risk offenders to Parole Board in place of automatic release**

- (1) This section applies to a prisoner who—
  - (a) would (but for anything done under this section and ignoring any possibility of release under section 246 or 248) be, or become, entitled to be released on licence under section 243A(2), 244(1) or 244ZA(1), and
  - (b) is (or will be) aged 18 or over on the first day on which the prisoner would be so entitled.
- (2) For the purposes of this section, the Secretary of State is of the requisite opinion if the Secretary of State believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of any of the following offences—
  - (a) murder;
  - (b) specified offences, within the meaning of section 306 of the Sentencing Code.
- (3) If the Secretary of State is of the requisite opinion, the Secretary of State may refer the prisoner's case to the Board.
- (4) Before referring the prisoner's case to the Board, the Secretary of State must notify the prisoner in writing of the Secretary of State's intention to do so (and the reference may be made only if the notice is in force).
- (5) A notice given under subsection (4) must take effect before the prisoner becomes entitled as mentioned in subsection (1)(a).
- (6) A notice given under subsection (4) must explain—
  - (a) the effect of the notice (including its effect under section 243A(2A), 244(1ZA) or 244ZA(3)),
  - (b) why the Secretary of State is of the requisite opinion, and
  - (c) the prisoner's right to make representations (see subsection (12)).
- (7) A notice given under subsection (4)—
  - (a) takes effect at whichever is the earlier of—
    - (i) the time when it is received by the prisoner, and
    - (ii) the time when it would ordinarily be received by the prisoner, and
  - (b) remains in force until—
    - (i) the Secretary of State refers the prisoner's case to the Board under this section, or
    - (ii) the notice is revoked.
- (8) The Secretary of State—
  - (a) may revoke a notice given under subsection (4), and
  - (b) must do so if the Secretary of State is no longer of the requisite opinion.
- (9) If a notice given under subsection (4) is in force and the prisoner would but for the notice have become entitled as mentioned in subsection (1)(a)—

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- (a) the prisoner may apply to the High Court on the ground that the prisoner's release has been delayed by the notice for longer than is reasonably necessary in order for the Secretary of State to complete the referral of the prisoner's case to the Board, and
  - (b) the High Court, if satisfied that that ground is made out, must by order revoke the notice.
- (10) At any time before the Board disposes of a reference under this section, the Secretary of State—
- (a) may rescind the reference, and
  - (b) must do so if the Secretary of State is no longer of the requisite opinion.
- (11) If the reference is rescinded, the prisoner is no longer to be treated as one whose case has been referred to the Board under this section (but this does not have the effect of reviving the notice under subsection (4)).
- (12) The prisoner may make representations to the Secretary of State about the referral, or proposed referral, of the prisoner's case at any time after being notified under subsection (4) and before the Board disposes of any ensuing reference under this section.

But the Secretary of State is not required to delay the referral of the prisoner's case in order to give an opportunity for such representations to be made.

#### **Textual Amendments**

**F292** Ss. 244ZB, 244ZC inserted (28.4.2022) by *Police, Crime, Sentencing and Courts Act 2022 (c. 32)*, ss. 132(4), 208(4)(p)

#### **244ZC Proceedings following reference under section 244ZB**

- (1) This section applies to a prisoner whose case has been referred to the Parole Board under section 244ZB.
- (2) If, in disposing of that reference or any subsequent reference of the prisoner's case to the Board under this subsection, the Board does not direct the prisoner's release, it is the duty of the Secretary of State to refer the prisoner's case to the Board again no later than the first anniversary of the disposal.
- (3) It is the duty of the Secretary of State to release the prisoner on licence as soon as—
  - (a) the prisoner has served the requisite custodial period, and
  - (b) the Board has directed the release of the prisoner under this section.
- (4) The Board must not give a direction under subsection (3) in disposing of the reference under section 244ZB unless the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (5) The Board must not subsequently give a direction under subsection (3) unless—
  - (a) the Secretary of State has referred the prisoner's case to the Board under subsection (2), and
  - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

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- (6) For the purposes of this section, the “requisite custodial period” means the period ending with the day on which the prisoner would have become entitled as mentioned in section 244ZB(1)(a).]

**Textual Amendments**

**F292** Ss. 244ZB, 244ZC inserted (28.4.2022) by **Police, Crime, Sentencing and Courts Act 2022 (c. 32)**, ss. 132(4), 208(4)(p)

**[<sup>F293</sup>244A Release on licence of prisoners serving sentence under [<sup>F294</sup>section 278 of the Sentencing Code etc]**

- (1) This section applies to a prisoner (“P”) who is serving a sentence imposed under section 236A [<sup>F295</sup>or under section 265 or 278 of the Sentencing Code][<sup>F296</sup>, other than a prisoner to whom section 247A applies].
- (2) The Secretary of State must refer P's case to the Board—
- (a) as soon as P has served the requisite custodial period, and
  - (b) where there has been a previous reference of P's case to the Board under this subsection and the Board did not direct P's release, not later than the second anniversary of the disposal of that reference.
- (3) It is the duty of the Secretary of State to release P on licence under this section as soon as—
- (a) P has served the requisite custodial period, and
  - (b) the Board has directed P's release under this section.
- (4) The Board must not give a direction under subsection (3) unless—
- (a) the Secretary of State has referred P's case to the Board, and
  - (b) the Board is satisfied that it is not necessary for the protection of the public that P should be confined.
- (5) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the appropriate custodial term, unless P has previously been released on licence under this section and recalled under section 254 (provision for the release of such persons being made by sections 255A to 255C).
- (6) For the purposes of this section—
- “the appropriate custodial term” means the term determined as such by the court under section 236A [<sup>F297</sup>or under section 265 or 278 of the Sentencing Code];
  - “the requisite custodial period” means—
- (a) in relation to a person serving one sentence [<sup>F298</sup>imposed before the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force], one-half of the appropriate custodial term,
  - (aa) [<sup>F299</sup>in relation to a person serving one sentence imposed on or after that day, two-thirds of the appropriate custodial term,] and
  - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [<sup>F300</sup>264(2D)].]

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**Textual Amendments**

- F293** S. 244A inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 6](#); [S.I. 2015/778](#), art. 3, [Sch. 1 para. 72](#)
- F294** Words in s. 244A heading substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 223\(2\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F295** Words in s. 244A(1) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 223\(3\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F296** Words in s. 244A(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 2\(4\)](#), 10(4)
- F297** Words in s. 244A(6) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 223\(4\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F298** Words in s. 244A(6) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 131\(2\)\(a\)](#), 208(5)(m)
- F299** Words in s. 244A(6) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 131\(2\)\(b\)](#), 208(5)(m)
- F300** Word in s. 244A(6) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 144\(5\)](#), 208(5)(p)

**F301 245 Restrictions on operation of section 244(1) in relation to intermittent custody prisoners**

.....

**Textual Amendments**

- F301** S. 245 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 22](#); [S.I. 2012/2906](#), art. 2(h)

**246 Power to release prisoners on licence before required to do so**

- (1) Subject to subsections (2) to (4), the Secretary of State may—
  - (a) release on licence under this section a fixed-term prisoner <sup>F302</sup>... at any time during the period of [<sup>F303</sup>180] days ending with the day on which the prisoner will have served the requisite custodial period, <sup>F304</sup>...
  - <sup>F304</sup>(b) .....
- (2) Subsection (1)(a) does not apply in relation to a prisoner unless—
  - (a) the length of the requisite custodial period is at least 6 weeks, [<sup>F305</sup>and
  - (b) he has served—
    - (i) at least 4 weeks of that period, and
    - (ii) at least one-half of that period.]
- <sup>F306</sup>(3) .....
- (4) Subsection (1) does not apply where—
  - (a) the sentence is imposed under section [<sup>F307</sup>226A,] 227 [<sup>F308</sup>, 228 or 236A][<sup>F309</sup> or under section 265, 266, 278 or 279 of the Sentencing Code],
  - [<sup>F310</sup>(aa) the sentence is for a term of 4 years or more,]
  - [<sup>F311</sup>(ab) the prisoner is one to whom section 247A applies,]

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- (b) the sentence is for an offence under section 1 of the Prisoners (Return to Custody) Act 1995 (c. 16),
  - (c) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the Mental Health Act 1983 (c. 20),
  - (d) the sentence was imposed by virtue of paragraph 9(1)(b) or (c) or 10(1)(b) or (c) of Schedule 8 <sup>F312</sup>, or paragraph 10(5)(c) or (d) or 11(2)(c) or (d) of Schedule 10 to the Sentencing Code,] in a case where the prisoner has failed to comply with a curfew requirement of a community order,
  - (e) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42),
  - (f) the prisoner is liable to removal from the United Kingdom,
  - <sup>F313</sup>(fa) the prisoner’s case has been referred to the Board under section 244ZB,
  - (fb) a notice given to the prisoner under subsection (4) of that section is in force,]
  - (g) the prisoner has been released on licence under this section <sup>F314</sup>at any time], and has been recalled to prison under section 255(1)(a) <sup>F315</sup>(and the revocation has not been cancelled under section 255(3))],
  - <sup>F316</sup>(ga) the prisoner has at any time been released on licence under section 34A of the Criminal Justice Act 1991 and has been recalled to prison under section 38A(1)(a) of that Act (and the revocation of the licence has not been cancelled under section 38A(3) of that Act);]
  - (h) the prisoner has been released on licence under section 248 during the currency of the sentence, and has been recalled to prison under section 254, <sup>F317</sup> ...
  - <sup>F318</sup>(ha) the prisoner has at any time been returned to prison under section 40 of the Criminal Justice Act 1991 or section 116 of <sup>F319</sup>the PCC(S)A 2000], or]
  - (i) in the case of a prisoner <sup>F320</sup>to whom section 240ZA applies or a direction under section 240A <sup>F321</sup>or under section 325 of the Sentencing Code] relates], the interval between the date on which the sentence was passed and the date on which the prisoner will have served the requisite custodial period is less than 14 days <sup>F322</sup> ... .
- <sup>F323</sup>(4ZA) Where subsection (4)(aa) applies to a prisoner who is serving two or more terms of imprisonment, the reference to the term of the sentence is—
- (a) if the terms are partly concurrent, a reference to the period which begins when the first term begins and ends when the last term ends;
  - (b) if the terms are to be served consecutively, a reference to the aggregate of the terms.]
- <sup>F324</sup>(4A) In subsection (4)—
- (a) the reference in paragraph (d) to a community order includes a service community order or overseas community order under the Armed Forces Act 2006; and
  - (b) the reference in paragraph (i) to <sup>F325</sup>section 240ZA includes] section 246 of that Act.]
- (5) The Secretary of State may by order—
- (a) amend the number of days for the time being specified in subsection (1)(a) <sup>F326</sup>... or (4)(i),
  - (b) amend the number of weeks for the time being specified in subsection (2)(a) or (b)(i), and
  - (c) amend the fraction for the time being specified in subsection (2)(b)(ii) <sup>F327</sup>... .

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(6) In this section—

<sup>F328</sup> .....

“the requisite custodial period” in relation to a person serving any sentence <sup>F329</sup> ... , has the meaning given by [<sup>F330</sup> paragraph (a) or (b) of section 243A(3) or (as the case may be)] paragraph (a) <sup>F329</sup> ... or (d) of section 244(3);

<sup>F331</sup> .....

[<sup>F332</sup>“term of imprisonment” includes a determinate sentence of detention under section 91 or 96 of [<sup>F333</sup>the PCC(S)A 2000, under section 250, 254, 262, 265, 266, 278 or 279 of the Sentencing Code] or under section [<sup>F334</sup>226A, 226B,] 227 [<sup>F335</sup>, 228 or 236A] of this Act.]

**Textual Amendments**

- F302** Words in s. 246(1)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(2)(a)**; S.I. 2012/2906, art. 2(h)
- F303** Word in s. 246(1)(a) substituted (6.6.2023) by The Criminal Justice Act 2003 (Home Detention Curfew) Order 2023 (S.I. 2023/390), arts. 1(2), **2**
- F304** S. 246(1)(b) and preceding word omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(2)(b)**; S.I. 2012/2906, art. 2(h)
- F305** S. 246(2)(b) and word substituted (14.7.2008) for s. 246(2)(b) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 24, 153**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 11
- F306** S. 246(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(3)**; S.I. 2012/2906, art. 2(h)
- F307** Words in s. 246(4)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 5(2)**; S.I. 2012/2906, art. 2(r)
- F308** Words in s. 246(4)(a) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 7(2)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F309** Words in s. 246(4)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F310** S. 246(4)(aa) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(2), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F311** S. 246(4)(ab) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 2(5), 10(4)**
- F312** Words in s. 246(4)(d) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F313** S. 246(4)(fa)(fb) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 132(5), 208(4)(p)**
- F314** Words in s. 246(4)(g) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(3)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F315** Words in s. 246(4)(g) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(3)(b), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F316** S. 246(4)(ga) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 15(4), 95(1)** (with s. 15(10)); S.I. 2015/778, art. 3, Sch. 1 para. 11
- F317** Word in s. 246(4)(h) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(4), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F318** S. 246(4)(ha) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(4), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F319** Words in s. 246(4)(ha) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F320** Words in s. 246(4)(i) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(9)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)



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- F321** Words in s. 246(4)(i) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(d)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F322** Words in s. 246(4)(i) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(4)**; S.I. 2012/2906, art. 2(h)
- F323** S. 246(4ZA) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(5), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F324** S. 246(4A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), **ss. 378(1), 383, Sch. 16 para. 221**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F325** Words in s. 246(4A)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(9)(b), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F326** Words in s. 246(5)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(5)(a)**; S.I. 2012/2906, art. 2(h)
- F327** Words in s. 246(5)(c) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(5)(b)**; S.I. 2012/2906, art. 2(h)
- F328** Words in s. 246(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(6)(a)**; S.I. 2012/2906, art. 2(h)
- F329** Words in s. 246(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(6)(b)**; S.I. 2012/2906, art. 2(h)
- F330** Words in s. 246(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 7**; S.I. 2012/2906, art. 2(l)
- F331** Words in s. 246(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(6)(c)**; S.I. 2012/2906, art. 2(h)
- F332** Words in s. 246(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(6), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F333** Words in s. 246(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F334** Words in s. 246(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 5(3)**; S.I. 2012/2906, art. 2(r)
- F335** Words in s. 246(6) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 7(3)**; S.I. 2015/778, art. 3, Sch. 1 para. 72

#### Modifications etc. (not altering text)

- C32** S. 246 excluded (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 237(5), 416(1)** (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

#### Commencement Information

- I103** S. 246 wholly in force at 4.4.2005; s. 246 not in force at Royal Assent, see s. 336(3); s. 246(1)(b)(3) (4)(b)-(i)(5)(6) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 246(5) in force at 7.3.2005 by S.I. 2005/373, **art. 2**; s. 246 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2)

### [<sup>F336</sup>246A Release on licence of prisoners serving extended sentence under [<sup>F337</sup>section 254, 266 or 279 of the Sentencing Code etc]

- (1) This section applies to a prisoner (“P”) who is serving an extended sentence imposed under section 226A or 226B [<sup>F338</sup>or under section 254, 266 or 279 of the Sentencing Code][<sup>F339</sup>, other than a prisoner to whom section 247A applies].
- (2) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the requisite custodial period for the purposes of this section [<sup>F340</sup>if—

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- (a) the sentence was imposed before the coming into force of section 4 of the Criminal Justice and Courts Act 2015,
  - (b) the appropriate custodial term is less than 10 years, and
  - (c) the sentence was not imposed in respect of an offence listed in Parts 1 to 3 of Schedule 15B or in respect of offences that include one or more offences listed in those Parts of that Schedule.]
- (3) [F341In any other case], it is the duty of the Secretary of State to release P on licence in accordance with subsections (4) to (7).
- (4) The Secretary of State must refer P's case to the Board—
- (a) as soon as P has served the requisite custodial period, and
  - (b) where there has been a previous reference of P's case to the Board under this subsection and the Board did not direct P's release, not later than the second anniversary of the disposal of that reference.
- (5) It is the duty of the Secretary of State to release P on licence under this section as soon as—
- (a) P has served the requisite custodial period, and
  - (b) the Board has directed P's release under this section.
- (6) The Board must not give a direction under subsection (5) unless—
- (a) the Secretary of State has referred P's case to the Board, and
  - (b) the Board is satisfied that it is no longer necessary for the protection of the public that P should be confined.
- [ Sections 246B and 246C contain provision that relates to the Board's function of giving
- F342(6A) directions under subsection (5) for the release of P.]
- (7) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the appropriate custodial term, unless P has previously been released on licence under this section and recalled under section 254 (provision for the release of such persons being made by section 255C).
- (8) For the purposes of this section—
- “appropriate custodial term” means the term determined as such by the court under section 226A or 226B [F343or under section 254, 266 or 279 of the Sentencing Code] (as appropriate);
- “the requisite custodial period” means—
- (a) in relation to a person serving one sentence, two-thirds of the appropriate custodial term, and
  - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [F344264(2B), (2D) or (2E)].]

#### Textual Amendments

**F336** S. 246A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 125\(3\)](#), [151\(1\)](#); [S.I. 2012/2906](#), [art. 2\(e\)](#)

**F337** Words in s. 246A heading substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 225\(2\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)

**F338** Words in s. 246A(1) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 225\(3\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)



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- F339** Words in s. 246A(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 2\(6\), 10\(4\)](#)
- F340** Words in s. 246A(2) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 4\(2\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 4](#)
- F341** Words in s. 246A(3) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 4\(3\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 4](#)
- F342** S. 246A(6A) inserted (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\), ss. 2\(3\), 3\(2\); S.I. 2020/1537, reg. 2](#)
- F343** Words in s. 246A(8) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 225\(4\) \(with Sch. 27\); S.I. 2020/1236, reg. 2](#)
- F344** Words in s. 246A(8) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 144\(6\), 208\(5\)\(p\)](#)

[<sup>F345</sup>**246B Manslaughter: prisoner's non-disclosure of information**

- (1) The Board must comply with this section when making a public protection decision about a prisoner if—
- (a) the prisoner's sentence was passed for manslaughter;
  - (b) the Board does not know where and how the victim's remains were disposed of; and
  - (c) the Board believes that the prisoner has information about where, or how, the victim's remains were disposed of (whether the information relates to the actions of the prisoner or any other individual) which the prisoner has not disclosed to the Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
- (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a) the reference to a sentence includes a sentence passed before the coming into force of section 2 of the Prisoners (Disclosure of Information About Victims) Act 2020.
- (5) In this section, in relation to a prisoner—
- “public protection decision” means the decision, made under section 246A(6)(b) for the purposes of section 246A(5), as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;
  - “victim” means the victim of the offence for which the prisoner's sentence was passed;
- and a reference to the victim's remains being disposed of includes the remains being left at the location where the victim died.]

**Textual Amendments**

- F345** Ss. 246B, 246C inserted (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\), ss. 2\(2\), 3\(2\); S.I. 2020/1537, reg. 2](#)

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**[<sup>F345</sup>246C Indecent images: prisoner's non-disclosure of information**

- (1) The Board must comply with this section when making a public protection decision about a prisoner if—
  - (a) the prisoner's sentence was passed for—
    - (i) an offence of taking an indecent photograph of a child, or
    - (ii) a relevant offence of making an indecent pseudo-photograph of a child;
  - (b) the Board does not know the identity of the child who is the subject of the relevant indecent image; and
  - (c) the Board believes that the prisoner has information about the identity of the child who is the subject of the relevant indecent image which the prisoner has not disclosed to the Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
  - (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a), the reference to a sentence includes a sentence passed before the coming into force of section 2 of the Prisoners (Disclosure of Information About Victims) Act 2020.
- (5) For the purposes of this section, an offence is—
  - (a) an “offence of taking an indecent photograph of a child” if it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of taking an indecent photograph of a child;
  - (b) a “relevant offence of making an indecent pseudo-photograph of a child” if—
    - (i) it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child, and
    - (ii) the Board believes that an image of a real child was or may have been used in the making of the pseudo-photograph;
 and, in the application of this section to a relevant offence of making an indecent pseudo-photograph of a child, the references in subsection (1)(b) and (c) to the child who is the subject of the relevant indecent image are references to the real child.
- (6) In this section—
 

“public protection decision”, in relation to a prisoner, means the decision, made under section 246A(6)(b) for the purposes of section 246A(5), as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;

“relevant indecent image” means—

  - (a) the photograph to which an offence of taking an indecent photograph of a child relates, or
  - (b) the pseudo-photograph to which a relevant offence of making an indecent pseudo-photograph of a child relates.]

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### Textual Amendments

**F345** Ss. 246B, 246C inserted (4.1.2021) by Prisoners (Disclosure of Information About Victims) Act 2020 (c. 19), ss. 2(2), 3(2); S.I. 2020/1537, reg. 2

## 247 Release on licence of prisoner serving extended sentence under section 227 or 228

(1) This section applies to a prisoner who is serving an extended sentence imposed under section 227 or 228<sup>F346</sup>, other than a prisoner to whom section 247A applies].

(2) As soon as—

(a) a prisoner to whom this section applies has served [<sup>F347</sup>the requisite custodial period],<sup>F348</sup> . . .

(b) <sup>F349</sup> . . . . .

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

(3) <sup>F350</sup> . . . . .

(4) <sup>F351</sup> . . . . .

(5) <sup>F352</sup> . . . . .

(6) <sup>F353</sup> . . . . .

[<sup>F354</sup>(7) In this section—

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

“the requisite custodial period” means—

(a) in relation to a person serving one sentence, one-half of the appropriate custodial term, and

(b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [<sup>F355</sup>264(2B) or (2E)].]

[<sup>F356</sup>(8) In its application to a person serving a sentence imposed before 14 July 2008, this section is subject to the modifications set out in paragraph 15 of Schedule 20B (transitional cases).]

### Textual Amendments

**F346** Words in s. 247(1) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), ss. 2(7), 10(4)

**F347** Words in s. 247(2)(a) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), ss. 14(3)(a), 95(1) (with s. 14(7)); S.I. 2015/778, art. 3, Sch. 1 para. 10

**F348** Word at the end of s. 247(2)(a) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 25(2)(a), 149, 153, Sch. 28 Pt. 2; S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

**F349** S. 247(2)(b) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 25(2)(b), 149, 153, Sch. 28 Pt. 2; S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

**F350** S. 247(3) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 25(3), 149, 153, Sch. 28 Pt. 2; S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

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- F351** S. 247(4) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 25(3), 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F352** S. 247(5) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 25(3), 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F353** S. 247(6) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 25(3), 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F354** S. 247(7) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 14(3)(b)**, 95(1) (with s. 14(7)); S.I. 2015/778, **art. 3**, Sch. 1 para. 10
- F355** Words in s. 247(7) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(7)**, 208(5)(p)
- F356** S. 247(8) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 3**; S.I. 2012/2906, **art. 2(o)**

#### Commencement Information

- I104** S. 247 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

### [<sup>F357</sup>247A] Restricted eligibility for release on licence of terrorist prisoners

- (1) This section applies to a prisoner (a “terrorist prisoner”) who—
- (a) is serving a fixed-term sentence imposed (whether before or after this section comes into force) in respect of an offence within subsection (2), and
  - (b) has not been released on licence.
- (2) An offence is within this subsection ([<sup>F358</sup>whenever it was committed]) if—
- [<sup>F359</sup>(a) it is specified in Part 1 or 2 of Schedule 19ZA (terrorism offences punishable with imprisonment for life or for more than two years),]
  - [<sup>F360</sup>(b) it is a service offence as respects which the corresponding civil offence is so specified, or
  - (c) it was determined to have a terrorist connection.]
- [ Subsections (3) to (5) apply unless the terrorist prisoner's sentence was imposed—
- <sup>F361</sup>(2A) (a) under section 226A or 226B or under section 254, 266, 268A, 279 or 282A of the Sentencing Code (extended sentence or serious terrorism sentence for dangerous offenders),
- (b) on or after the day on which section 27 of the Counter-Terrorism and Sentencing Act 2021 comes into force, and
  - (c) in respect of an offence that—
    - (i) is specified in Part 1 of Schedule 19ZA (terrorism offences punishable with imprisonment for life),
    - (ii) is a service offence as respects which the corresponding civil offence is so specified,
    - (iii) is specified in Part 3 of that Schedule (other offences punishable with imprisonment for life) and was determined to have a terrorist connection, or
    - (iv) is a service offence as respects which the corresponding civil offence is so specified, and was determined to have a terrorist connection.]
- (3) It is the duty of the Secretary of State to refer the case of a terrorist prisoner to the Board—
- (a) as soon as the prisoner has served the requisite custodial period, and

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- (b) where there has been a previous reference of the prisoner's case to the Board under this subsection and the Board did not direct the prisoner's release, no later than the second anniversary of the disposal of that reference.
- (4) It is the duty of the Secretary of State to release a terrorist prisoner on licence as soon as—
  - (a) the prisoner has served the requisite custodial period, and
  - (b) the Board has directed the release of the prisoner under this section.
- (5) The Board must not give a direction under subsection (4) unless—
  - (a) the Secretary of State has referred the terrorist 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.
- (6) Subsection (7) applies where the terrorist prisoner is serving a sentence imposed under section 226A, 226B, 227, 228 or 236A [<sup>F362</sup>or under section [<sup>F363</sup>252A,] 254, 265, 266, [<sup>F364</sup>268A, 278, 279 or 282A] of the Sentencing Code].
- (7) It is the duty of the Secretary of State to release the terrorist prisoner on licence under this section as soon as the prisoner has served the appropriate custodial term (see sections 255B and 255C for provision about the re-release of a person who has been recalled under section 254).

[ For the purposes of this section, an offence was determined to have a terrorist <sup>F365</sup>(7A) connection if it was—

- (a) determined to have a terrorist connection under—
    - (i) section 69 of the Sentencing Code (including as applied by section 238(6) of the Armed Forces Act 2006),
    - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in England and Wales before the Sentencing Code applied, or an offender sentenced in Northern Ireland but now subject to the provisions of this Chapter), or
    - (iii) section 32 of that Act (in the case of a person sentenced for a service offence before the Sentencing Code applied), or
  - (b) proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland but now subject to the provisions of this Chapter).]
- (8) For the purposes of this section—
- “the appropriate custodial term”, in relation to a sentence imposed under section 226A, 226B, 227, 228 or 236A, [<sup>F366</sup>or under section [<sup>F367</sup>252A,] 254, 265, 266, [<sup>F368</sup>268A, 278, 279 or 282A] of the Sentencing Code,] means the term determined as such by the court under that provision;
- “the requisite custodial period” means—
- (a) in relation to a person serving one sentence imposed under section 226A, 226B, 227, 228, or 236A, [<sup>F366</sup>or under section [<sup>F367</sup>252A,] 254, 265, 266, 278 or 279 of the Sentencing Code,] two-thirds of the appropriate custodial term,
  - (b) in relation to a person serving one sentence of any other kind, two-thirds of the sentence, and

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- (c) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [F369 264(2B), (2D) or (2E)];
- “service offence”, [F370 and “corresponding civil offence”] have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).
- (9) For the purposes of this section, a reference of a terrorist prisoner's case to the Board disposed of before the day on which this section comes into force is to be treated as if it was made (and disposed of) under subsection (3) if—
- (a) it was made under section 244A(2)(b) and disposed of at a time when the prisoner had served the requisite custodial [F371 period] (within the meaning of this section, not section 244A), or
  - (b) it was made under section 246A(4).
- (10) Nothing in this section affects the duty of the Secretary of State to release a person whose release has been directed by the Board before this section comes into force.
- [ In the case of a prisoner to whom this section applies as a result of the amendments F372(10A) made by sub-paragraph (2) of paragraph 45 of Schedule 13 to the Counter-Terrorism and Sentencing Act 2021, the references in subsections (9) and (10) to the date on which this section comes into force are to be read as references to the date on which that sub-paragraph comes into force.]
- (11) This section is subject to paragraphs 5, 17 and 19 of Schedule 20B (transitional cases).]

#### Textual Amendments

- F357** S. 247A inserted (E.W.) (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 1\(2\), 10\(4\)](#)
- F358** Words in s. 247A(2) substituted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(1\)\(i\), Sch. 13 para. 45\(2\)\(a\)\(i\)](#)
- F359** S. 247A(2)(a) substituted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), ss. 27\(2\)\(a\), 50\(2\)\(n\)](#)
- F360** S. 247A(2)(b)(c) substituted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(1\)\(i\), Sch. 13 para. 45\(2\)\(a\)\(ii\)](#)
- F361** S. 247A(2A) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), ss. 27\(2\)\(b\), 50\(2\)\(n\)](#)
- F362** Words in s. 247A(6) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 226\(3\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F363** Word in s. 247A(6) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(1\)\(i\), Sch. 13 para. 21\(4\)\(a\)](#)
- F364** Words in s. 247A(6) substituted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(2\)\(v\), Sch. 13 para. 9\(4\)\(a\)](#)
- F365** S. 247A(7A) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(1\)\(i\), Sch. 13 para. 45\(2\)\(b\)](#)
- F366** Words in s. 247A(8) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 226\(4\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F367** Word in s. 247A(8) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(1\)\(i\), Sch. 13 para. 21\(4\)\(b\)](#)
- F368** Words in s. 247A(8) substituted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(2\)\(v\), Sch. 13 para. 9\(4\)\(b\)](#)
- F369** Words in s. 247A(8) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 144\(8\), 208\(5\)\(p\)](#)

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- F370** Words in s. 247A(8) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(c)**
- F371** Word in s. 247A(9)(a) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(d)**
- F372** S. 247A(10A) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(e)**

## 248 Power to release prisoners on compassionate grounds

- (1) The Secretary of State may at any time release a fixed-term prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.

<sup>F373</sup>(2) .....

### Textual Amendments

- F373** S. 248(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 116(2), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)

### Commencement Information

- I105** S. 248 wholly in force at 4.4.2005; s. 248 not in force at Royal Assent, see s. 336(3); s. 248(1) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2, Sch.**; s. 248 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1), Sch. 1 para. 19** (subject to [art. 2\(2\), Sch. 2](#))

## 249 Duration of licence

- (1) Subject to [<sup>F374</sup>subsection (3)], where a fixed-term prisoner [<sup>F375</sup>, other than one to whom section 243A applies,] is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force for the remainder of his sentence.

[<sup>F376</sup>(1A) Where a prisoner to whom section 243A applies is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force until the date on which, but for the release, the prisoner would have served one-half of the sentence.

This is subject to subsection (3).]

<sup>F377</sup>(2) .....

- (3) [<sup>F378</sup>Subsections (1) and (1A) have] effect subject to [<sup>F379</sup>section] 263(2) (concurrent terms) [<sup>F380</sup>and sections 264(3C)(a) and 264B] <sup>F381</sup>... (consecutive terms) <sup>F382</sup>...

<sup>F383</sup>(4) .....

[<sup>F384</sup>(5) This section is subject to paragraphs 17, 19 and 26 of Schedule 20B (transitional cases).]

### Textual Amendments

- F374** Words in s. 249(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 24(a)**; S.I. 2012/2906, [art. 2\(h\)](#)
- F375** Words in s. 249(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 8(2)**; S.I. 2012/2906, [art. 2\(l\)](#)



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- F376** S. 249(1A) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(3)**; S.I. 2012/2906, art. 2(l)
- F377** S. 249(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(b)**; S.I. 2012/2906, art. 2(h)
- F378** Words in s. 249(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(4)(a)**; S.I. 2012/2906, art. 2(l)
- F379** Word in s. 249(3) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 5(4)(a)**, 22(1) (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(e)
- F380** Words in s. 249(3) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 5(4)(b)**, 22(1) (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(e)
- F381** Words in s. 249(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(4)(b)**; S.I. 2012/2906, art. 2(l)
- F382** Words in s. 249(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(c)**; S.I. 2012/2906, art. 2(h)
- F383** S. 249(4) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(d)**; S.I. 2012/2906, art. 2(h)
- F384** S. 249(5) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 4**; S.I. 2012/2906, art. 2(o)

**Commencement Information**

- I106** S. 249 wholly in force at 4.4.2005; s. 249 not in force at Royal Assent, see s. 336(3); s. 249 in force for certain purposes at 26.1.2004 by **S.I. 2003/3282, art. 2, Sch.**; s. 249 in force in so far as not already in force at 4.4.2005 by **S.I. 2005/950, art. 2(1)** **Sch. 1 para. 19** (subject to art. 2(2), **Sch. 2**)

**250 Licence conditions**

- (1) In this section—
  - (a) “the standard conditions” means such conditions as may be prescribed for the purposes of this section as standard conditions, and
  - (b) “prescribed” means prescribed by the Secretary of State by order.

<sup>F385</sup>(2) .....

<sup>F386</sup>(2A) .....

<sup>F387</sup>(3) .....

- (4) Any licence under this Chapter in respect of a prisoner serving a sentence of imprisonment <sup>F388</sup> ... (including <sup>F388</sup> ... a sentence imposed under section [<sup>F389</sup>226A][<sup>F390</sup>, 227 or 236A][<sup>F391</sup> or under section 278 [<sup>F392</sup>, 279 or 282A] of the Sentencing Code] or any sentence of detention under section 91 [<sup>F393</sup> or 96] of [<sup>F394</sup>the PCC(S)A 2000, under section 250, [<sup>F395</sup>252A,] 254, 262, 265 [<sup>F396</sup>, 266 or 268A] of the Sentencing Code or under] section [<sup>F397</sup>226A, 226B,][<sup>F398</sup>227 ][<sup>F399</sup>, 228 or 236A] of this Act—
  - (a) must include the standard conditions,
  - [<sup>F400</sup>(aa) must include any electronic monitoring conditions required by an order under section 62A of the Criminal Justice and Court Services Act 2000,] and
  - (b) may include—
    - (i) any [<sup>F401</sup>other] condition authorised by section 62[<sup>F402</sup>, 64 or 64A] of the Criminal Justice and Court Services Act 2000 [<sup>F403</sup> or section 28 of the Offender Management Act 2007], and



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(ii) such other conditions of a kind prescribed by the Secretary of State for the purposes of this paragraph as the Secretary of State may for the time being specify in the licence.

[<sup>F404</sup>(4A) In exercising any power under subsection (4)(b) in respect of an offender, the Secretary of State must have regard to any recommendation under section 328 of the Sentencing Code (power of court to recommend licence conditions where adult is sentenced to term of 12 months or more).]

(5) A licence under section 246 must also include a curfew condition complying with section 253.

[<sup>F405</sup>(5A) The Secretary of State must not—

(a) include a condition referred to in subsection (4)(b)(ii) in a licence within subsection (5B), either on release or subsequently, or

(b) vary or cancel any such condition included in such a licence,

unless the Board directs the Secretary of State to do so (and must, if the Board so directs, include, vary or cancel such a condition).

(5B) A licence is within this subsection if it is granted to a relevant prisoner—

(a) on their initial release in a case where that release is at the direction of the Board, or

(b) on their release after recall to prison in a case where that release is at the direction of the Board (see sections 255B(5), 255C(5) and 256A(5)).

(5C) In subsection (5B), “relevant prisoner” means a prisoner to whom section 244ZC, 244A, 246A, 247 or 247A applies (or applied) for the purposes of their initial release.]

<sup>F406</sup>(5BA) .....

<sup>F407</sup>(6) .....

<sup>F408</sup>(7) .....

(8) In exercising his powers to prescribe standard conditions or the other conditions referred to in subsection (4)(b)(ii), the Secretary of State must have regard to the following purposes of the supervision of offenders while on licence under this Chapter—

(a) the protection of the public,

(b) the prevention of re-offending, and

(c) securing the successful re-integration of the prisoner into the community.

<sup>F409</sup>(9) .....

#### Textual Amendments

**F385** S. 250(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)

**F386** S. 250(2A) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)

**F387** S. 250(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)

**F388** Words in s. 250(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 9](#); S.I. 2012/2906, art. 2(l)

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- F389** Words in s. 250(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 6(2)(a)**; S.I. 2012/2906, art. 2(r)
- F390** Words in s. 250(4) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 17(2)(a)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F391** Words in s. 250(4) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 227(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F392** Words in s. 250(4) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(5)(a)**
- F393** Words in s. 250(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(5)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F394** Words in s. 250(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 227(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F395** Word in s. 250(4) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(5)(a)**
- F396** Words in s. 250(4) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(5)(b)**
- F397** Words in s. 250(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 6(2)(b)**; S.I. 2012/2906, art. 2(r)
- F398** Words in s. 250(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(5)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F399** Words in s. 250(4) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 17(2)(b)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F400** S. 250(4)(aa) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 2 para. 4(2)** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F401** Word in s. 250(4)(b)(i) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 2 para. 4(3)** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F402** Words in s. 250(4)(b)(i) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 12(2)**, 22(1) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(k)
- F403** Words in s. 250(4)(b)(i) inserted (for specified purposes and with effect in accordance with art. 5 of the commencing S.I., 6.1.2014 in so far as not already in force) by Offender Management Act 2007 (c. 21), **ss. 28(5)**, 41(1); S.I. 2009/32, arts. 3(a), 4; S.I. 2013/1963, art. 2(1)
- F404** S. 250(4A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 227(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F405** S. 250(5A)-(5C) substituted for s. 250(5A)-(5B) (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 134(2)**, 208(1) (with s. 134(4)-(7)); S.I. 2022/520, **reg. 5(o)**
- F406** S. 250(5BA) omitted (30.4.2021) by virtue of Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(3)(c)**
- F407** S. 250(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 25(a)**; S.I. 2012/2906, art. 2(h)
- F408** S. 250(7) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), **ss. 5(5)**, 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(e)
- F409** S. 250(9) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 134(3)**, 208(1) (with s. 134(4)-(7)); S.I. 2022/520, reg. 5(o)

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### Commencement Information

- I107** S. 250 partly in force; s. 250 not in force at Royal Assent, see s. 336(3); s. 250(1)-(3)(5)-(8) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 250(1)(2)(b)(ii)(4)(b)(ii)(8) in force at 7.3.2005 by S.I. 2005/373, **art. 2**; s. 250(1)(4)-(7) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

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**F410 251 Licence conditions on re-release of prisoner serving sentence of less than 12 months**

**Textual Amendments**

**F410** S. 251 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 26](#); S.I. 2012/2906, art. 2(h)

**Commencement Information**

**I108** S. 251 partly in force; s. 251 not in force at Royal Assent, see s. 336(3); s. 251 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

**252 Duty to comply with licence conditions**

[<sup>F411</sup>(1)] A person subject to a licence under this Chapter must comply with such conditions as may for the time being be specified in the licence.

[<sup>F412</sup>(2) But where—

(a) the licence relates to a sentence of imprisonment passed by a service court,  
[<sup>F413</sup>and]

<sup>F414</sup>(b) .....

(c) the person is residing outside the British Islands,

the conditions specified in the licence apply to him only so far as it is practicable for him to comply with them where he is residing.]

**Textual Amendments**

**F411** S. 252 renumbered (28.3.2009 for certain purposes, otherwise 31.10.2009) as s. 252(1) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 224\(1\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**F412** S. 252(2) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 224\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**F413** Word in s. 252(2)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 27\(a\)](#); S.I. 2012/2906, art. 2(h)

**F414** S. 252(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 27\(b\)](#); S.I. 2012/2906, art. 2(h)

**Commencement Information**

**I109** S. 252 wholly in force at 4.4.2005; s. 252 not in force at Royal Assent, see s. 336(3); s. 252 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 252 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, {art. 2(1)}, [Sch. 1 para. 19](#) (subject to art. 2(2), [Sch. 2](#))

**253 Curfew condition to be included in licence under section 246<sup>F415</sup>, 255B or 255C]**

(1) For the purposes of this Chapter, a curfew condition is a condition which—

(a) requires the released person to remain, for periods for the time being specified in the condition, at a place for the time being so specified (which may be

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- premises approved by the Secretary of State under [F416 section 13 of the Offender Management Act 2007 (c.21)], and
- (b) includes [F417 a requirement, imposed under section 62 of the Criminal Justice and Court Services Act 2000, to submit to] electronic monitoring of his whereabouts during the periods for the time being so specified.
- (2) The curfew condition may specify different places or different periods for different days, but may not specify periods which amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).
- (3) The curfew condition is to remain in force until the date when the released person would (but for his release) fall to be released [F418 unconditionally under section 243A or] on licence under section 244.
- F419 (4) .....
- F420 (5) .....
- (6) Nothing in this section is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons' whereabouts in any particular part of England and Wales.

#### Textual Amendments

- F415** Words in s. 253 heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 114(3), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F416** Words in s. 253(1)(a) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, **Sch. 1 para. 19(14)**
- F417** Words in s. 253(1) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 2 para. 5(2)** (with s. 7(5)); S.I. 2015/778, art. 3, [Sch. 1 para. 73](#)
- F418** Words in s. 253(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 10**; S.I. 2012/2906, art. 2(l)
- F419** S. 253(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 28**; S.I. 2012/2906, art. 2(h)
- F420** S. 253(5) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 2 para. 5(3)** (with s. 7(5)); S.I. 2015/778, art. 3, [Sch. 1 para. 73](#)

#### Commencement Information

- I110** S. 253 wholly in force at 4.4.2005; s. 253 not in force at Royal Assent, see s. 336(3); s. 253 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2, Sch.**; s. 253(5) in force at 7.3.2005 by [S.I. 2005/373](#), **art. 2**; s. 253 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### *Recall after release*

#### 254 Recall of prisoners while on licence

- (1) The Secretary of State may, in the case of any prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.
- (2) A person recalled to prison under subsection (1)—
- (a) may make representations in writing with respect to his recall, and

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(b) on his return to prison, must be informed of the reasons for his recall and of his right to make representations.

[<sup>F421</sup>(2A) The Secretary of State, after considering any representations under subsection (2)(a) or any other matters, may cancel a revocation under this section.

(2B) The Secretary of State may cancel a revocation under subsection (2A) only if satisfied that the person recalled has complied with all the conditions specified in the licence.

(2C) Where the revocation of a person's licence is cancelled under subsection (2A), the person is to be treated as if the recall under subsection (1) had not happened.]

<sup>F422</sup>(3) .....

<sup>F422</sup>(4) .....

<sup>F422</sup>(5) .....

(6) On the revocation of the licence of any person under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.

(7) Nothing in [<sup>F423</sup>this section] applies in relation to a person recalled under section 255.

#### Textual Amendments

**F421** S. 254(2A)-(2C) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 113(1), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

**F422** S. 254(3)-(5) repealed (14.7.2008 for certain purposes, otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 29(1)(a), 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 paras. 15, 50(2)(c) (subject to Sch. 2 para. 3); S.I. 2009/2606, **art. 3(c)**

**F423** Words in s. 254(7) substituted (14.7.2008 for certain purposes, otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 29(1)(b), 153**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 15 (subject to Sch. 2 para. 3); S.I. 2009/2606 {art. 3(c)}

#### Commencement Information

**I111** S. 254 wholly in force at 4.4.2005; s. 254 not in force at Royal Assent, see s. 336(3); s. 254 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 254 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

## 255 Recall of prisoners released early under section 246

(1) If it appears to the Secretary of State, as regards a person released on licence under section 246—

(a) that he has failed to comply with [<sup>F424</sup>the curfew condition included in the licence], or

(b) that his whereabouts can no longer be electronically monitored at the place for the time being specified in the curfew condition included in his licence,

the Secretary of State may, if the curfew condition is still in force, revoke the licence and recall the person to prison under this section.

(2) A person whose licence under section 246 is revoked under this section—

(a) may make representations in writing with respect to the revocation, and

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- (b) on his return to prison, must be informed of the reasons for the revocation and of his right to make representations.
- (3) The Secretary of State, after considering any representations under [F425 subsection (2) (a)] or any other matters, may cancel a revocation under this section.
- (4) Where the revocation of a person’s licence is cancelled under subsection (3), the person is to be treated for the purposes of section 246 as if he had not been recalled to prison under this section.
- (5) On the revocation of a person’s licence under section 246, he is liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.

#### Textual Amendments

**F424** Words in s. 255(1)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 9\(3\), 22\(1\)](#) (with [Sch. 7 para. 5](#)); [S.I. 2015/40, art. 2\(i\)](#)

**F425** Words in s. 255(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 113\(2\), 151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906, art. 2\(d\)](#)

#### Commencement Information

**I112** S. 255 wholly in force at 4.4.2005; s. 255 not in force at Royal Assent, see s. 336(3); s. 255 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 255 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

#### [F426] **255ZA Offence of remaining unlawfully at large after recall**

- (1) A person recalled to prison under section 254 or 255 commits an offence if the person—
  - (a) has been notified of the recall orally or in writing, and
  - (b) while unlawfully at large fails, without reasonable excuse, to take all necessary steps to return to prison as soon as possible.
- (2) A person is to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
  - (a) written notice of the recall has been delivered to an appropriate address, and
  - (b) a period specified in the notice has elapsed.
- (3) In subsection (2) “an appropriate address” means—
  - (a) an address at which, under the person's licence, the person is permitted to reside or stay, or
  - (b) an address nominated, in accordance with the person's licence, for the purposes of this section.
- (4) A person is also to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
  - (a) the person's licence requires the person to keep in touch in accordance with any instructions given by an officer of a provider of probation services,
  - (b) the person has failed to comply with such an instruction, and
  - (c) the person has not complied with such an instruction for at least 6 months.
- (5) A person who is guilty of an offence under this section is liable—



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- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both);
  - (b) on summary conviction to imprisonment for a term not exceeding [<sup>F427</sup>the general limit in a magistrates' court] or a fine (or both).
- (6) In relation to an offence committed before [<sup>F428</sup>2 May 2022], the reference in subsection (5)(b) to [<sup>F429</sup>the general limit in a magistrates' court] is to be read as a reference to 6 months.
- (7) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (5) (b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.]

**Textual Amendments**

- F426** S. 255ZA inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 12(2)**, 95(1) (with s. 12(3)); S.I. 2015/778, art. 3, Sch. 1 para. 8
- F427** Words in s. 255ZA(5)(b) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**
- F428** Words in s. 255ZA(6) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**
- F429** Words in s. 255ZA(6) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**

*[<sup>F430</sup>Further release after recall]*

**Textual Amendments**

- F430** S. 255A-255C and crossheading substituted for s. 255A-255D (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 114(1)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

**[<sup>F430</sup>255A Further release after recall: introductory**

- (1) This section applies for the purpose of identifying which of sections 255B and 255C governs the further release of a person who has been recalled under section 254.
- (2) The Secretary of State must, on recalling a person other than an extended sentence prisoner [<sup>F431</sup>, a serious terrorism prisoner or a prisoner whose case was referred to the Board under section 244ZB], consider whether the person is suitable for automatic release.

<sup>F432</sup>(3) .....

[<sup>F433</sup>(4) A person is suitable for automatic release only if—

- (a) the person—
  - (i) is aged 18 or over,
  - (ii) is serving a sentence of less than 12 months,

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- (iii) has not been recalled on account of being charged with a serious offence, and
  - (iv) is not being managed at level 2 or 3, as specified in guidance for the time being issued under section 325(8), by a responsible authority under arrangements made under that section (arrangements for assessing etc risks posed by certain offenders), or
  - (b) where paragraph (a) does not apply, the Secretary of State is satisfied that the person will not present a risk of serious harm to members of the public if released at the end of the automatic release period.
- (4A) For the purposes of subsection (4) “serious offence” means—
- (a) murder, or
  - (b) an offence listed in Schedule 18 to the Sentencing Code.]
- (5) The person must be dealt with—
- (a) in accordance with section 255B if suitable for automatic release;
  - (b) in accordance with section 255C otherwise.
- [<sup>F434</sup>but that is subject, where applicable, to section 243A(2) (unconditional release).]
- (6) For the purposes of this section, a person returns to custody when that person, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.
- (7) An “extended sentence prisoner” is a prisoner serving an extended sentence imposed under—
- (a) section [<sup>F435</sup>226A, 226B,] 227 or 228 of this Act, <sup>F436</sup>...
  - [<sup>F437</sup>(aa) section 254, 266 or 279 of the Sentencing Code, or]
  - (b) section 85 of [<sup>F438</sup>the PCC(S)A 2000];
- and paragraph (b) includes (in accordance with paragraph 1(3) of Schedule 11 to [<sup>F438</sup>the PCC(S)A 2000]) a reference to section 58 of the Crime and Disorder Act 1998.]
- [<sup>F439</sup>(7A) A “serious terrorism prisoner” is a prisoner serving a serious terrorism sentence imposed under section 268A or 282A of the Sentencing Code.]
- [<sup>F440</sup>(8) Automatic release” means release at the end of the automatic release period.
- (9) In the case of a person recalled under section 254 while on licence under a provision of this Chapter other than section 246, “the automatic release period” means—
- (a) where the person is serving a sentence of less than 12 months, the period of 14 days beginning with the day on which the person returns to custody;
  - (b) where the person is serving a sentence of 12 months or more, the period of 28 days beginning with that day.
- (10) In the case of a person recalled under section 254 while on licence under section 246, “the automatic release period” means whichever of the following ends later—
- (a) the period described in subsection (9)(a) or (b) (as appropriate);
  - (b) the requisite custodial period which the person would have served under section 243A or 244 but for the earlier release.]

#### Textual Amendments

**F431** Words in s. 255A(2) substituted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 132(6), 208(4)(p)



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- F432** S. 255A(3) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), **ss. 9(4)(a)**, 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F433** S. 255A(4)(4A) substituted for s. 255A(4) (2.4.2024) by The Criminal Justice Act 2003 (Suitability for Fixed Term Recall) Order 2024 (S.I. 2024/408), arts. 1(2), **2(2)** (with art. 3)
- F434** Words in s. 255A(5) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 9(4)(c)**, 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F435** Words in s. 255A(7)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 7**; S.I. 2012/2906, art. 2(r)
- F436** Word in s. 255A(7)(a) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 228(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F437** S. 255A(7)(aa) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 228(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F438** Words in s. 255A(7) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 228(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F439** S. 255A(7A) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(6)(b)**
- F440** Ss. 255A(8)-(10) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 9(4)(d)**, 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)

#### Modifications etc. (not altering text)

- C33** S. 255A(7) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1, 5(2)(3)**; S.I. 2012/1236, reg. 2

#### [<sup>F430</sup>255A] Automatic release

- (1) A prisoner who is suitable for automatic release (“P”) must—
  - (a) on return to prison, be informed that he or she will be released under this section (subject to subsections (8) and (9)), and
  - (b) at the end of [<sup>F441</sup>the automatic release period (as defined in section 255A(9) and (10))], be released by the Secretary of State on licence under this Chapter (unless P is released before that date under subsection (2) or (5)).
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).
- (4) If P makes representations under section 254(2) before the end of that period, the Secretary of State must refer P’s case to the Board on the making of those representations.

[<sup>F442</sup>(4A) The Board must not give a direction for P’s release on a reference under subsection (4) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).]

- (5) Where on a reference under subsection (4) the Board directs P’s <sup>F443</sup>... release on licence under this Chapter, the Secretary of State must give effect to the direction.
- (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.

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- (7) Where this subsection applies—
- (a) if P is released under this section before that date, P's licence must include a curfew condition complying with section 253, and
  - (b) P is not to be so released (despite subsections (1)(b) and (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
- (8) Subsection (9) applies if, after P has been informed that he or she will be released under this section, the Secretary of State receives further information about P (whether or not relating to any time before P was recalled).
- (9) If the Secretary of State determines, having regard to that and any other relevant information, that P is not suitable for automatic release—
- (a) the Secretary of State must inform P that he or she will not be released under this section, and
  - (b) section 255C applies to P as if the Secretary of State had determined, on P's recall, that P was not suitable for automatic release.
- [<sup>F444</sup>(10) Subsections (8) and (9) do not apply where P falls within section 255A(4)(a), unless the Secretary of State receives information that, after being recalled, P has been charged with a serious offence (within the meaning of section 255A(4A)).]

#### Textual Amendments

- F441** Words in s. 255B(1)(b) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 9\(5\), 22\(1\)](#) (with [Sch. 7 para. 5](#)); S.I. 2015/40, art. 2(i)
- F442** S. 255B(4A) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 136\(2\), 208\(1\)](#); S.I. 2022/520, reg. 5(o)
- F443** Word in s. 255B(5) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 139\(2\)\(a\), 208\(1\)](#); S.I. 2022/520, reg. 5(o)
- F444** S. 255B(10) inserted (2.4.2024) by [The Criminal Justice Act 2003 \(Suitability for Fixed Term Recall\) Order 2024 \(S.I. 2024/408\), arts. 1\(2\), 2\(3\)](#) (with art. 3)

#### [<sup>F430</sup>255C<sup>F445</sup> Prisoners not suitable for automatic release]

- (1) This section applies to a prisoner (“P”) [<sup>F446</sup>—
- (a) whose suitability for automatic release does not have to be considered under section 255A(2), or
  - (b) who is not considered suitable for automatic release.]
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison.
- (4) The Secretary of State must refer P's case to the Board—
- (a) if P makes representations under section 254(2) before the end of the period of 28 days beginning with the date on which P returns to custody, on the making of those representations, or

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- (b) if, at the end of that period, P has not been released under subsection (2) and has not made such representations, at that time.
- [<sup>F447</sup>(4A) The Board must not give a direction for P’s release on a reference under subsection (4) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison.]
- (5) Where on a reference under subsection (4) the Board directs P’s <sup>F448</sup>... release on licence under this Chapter, the Secretary of State must give effect to the direction.
  - (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
  - (7) Where this subsection applies—
    - (a) if P is released under this section before that date, P’s licence must include a curfew condition complying with section 253, and
    - (b) P is not to be so released (despite subsection (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
  - (8) For the purposes of this section, P returns to custody when P, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.]

**Textual Amendments**

- F445** S. 255C heading substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(7)(a)**
- F446** S. 255C(1)(a)(b) and word substituted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 132(7), 208(4)(p)**
- F447** S. 255C(4A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 136(3), 208(1); S.I. 2022/520, reg. 5(o)**
- F448** Word in s. 255C(5) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 139(2)(b), 208(1); S.I. 2022/520, reg. 5(o)**

<sup>F449</sup>**256 Review by the Board**

.....

**Textual Amendments**

- F449** S. 256 omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 136(4), 208(1); S.I. 2022/520, reg. 5(o)**

[<sup>F450</sup>**256A Further review**

- [<sup>F451</sup>(1) This section applies to a person if—
- (a) there has been a previous reference of the person’s case to the Board under section 255C(4) or this section, and
  - (b) the person has not been released.

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- (1A) The Secretary of State must refer the person’s case back to the Board not later than the first anniversary of the most recent determination by the Board not to release the person (the “review date”).
- (1B) Subsection (1A) does not apply where the review date is 13 months or less before the date on which the person is required to be released by the Secretary of State.]
- (2) The Secretary of State may, at any time before [F452the review date], refer the person’s case to the Board.
- (3) The Board may at any time recommend to the Secretary of State that [F453the person’s] case be referred under subsection (2).
- [F454(4) The Board must not give a direction for a person’s release on a reference under subsection (1A) or (2) unless the Board is satisfied that it is not necessary for the protection of the public that the person should remain in prison.
- (5) Where on a reference under subsection (1A) or (2) the Board directs a person’s release on licence under this Chapter, the Secretary of State must give effect to the direction.]]

#### Textual Amendments

- F450** S. 256A inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(6\)](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 16 (subject to Sch. 2 para. 3)
- F451** S. 256A(1)-(1B) substituted for s. 256A(1) (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 136\(5\)\(a\)](#), 208(1); S.I. 2022/520, reg. 5(o)
- F452** Words in s. 256A(2) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 136\(5\)\(b\)](#), 208(1); S.I. 2022/520, reg. 5(o)
- F453** Words in s. 256A(3) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 136\(5\)\(c\)](#), 208(1); S.I. 2022/520, reg. 5(o)
- F454** S. 256A(4)(5) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 136\(5\)\(d\)](#), 208(1); S.I. 2022/520, reg. 5(o)

#### [F455] ~~256A~~ Release after recall where further sentence being served

- (1) This section applies where a person (“the offender”) is serving two or more terms of imprisonment.
- (2) Nothing in sections 255A to 256A requires the Secretary of State to release the offender in respect of any of the terms unless and until the Secretary of State is required to release the offender in respect of each of the others.
- (3) Nothing in sections 255A to 256A requires the Secretary of State to refer the offender’s case to the Board in respect of any of the terms unless and until the Secretary of State is required either—
- (a) to refer the offender’s case to the Board, or
  - (b) to release the offender,
- in respect of each of the others.
- (4) If the offender is released on licence under section 255B, 255C or 256A, the offender is to be on licence—
- (a) until the last date on which the offender is required to be on licence in respect of any of the terms, and

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- (b) subject to such conditions as are required by this Chapter in respect of any of the sentences.
- (5) This section applies to a determinate sentence of detention under any of the following provisions as it applies to a term of imprisonment—
- (a) section 91 or 96 of the PCC(S)A 2000;
  - (b) section 250, 252A, 254, 262, 265, 266 or 268A of the Sentencing Code;
  - (c) section 226A, 226B, 227, 228 or 236A of this Act.]

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**Textual Amendments**

**F455** S. 256AZA inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. **136(6)**, 208(1); S.I. 2022/520, reg. 5(o)

**[<sup>F456</sup>256AZB] Power to change test for release following recall**

- (1) The Secretary of State may by order change—
- (a) the test to be applied by the Secretary of State in deciding under section 255A whether a person is suitable for automatic release;
  - (b) the test to be applied by the Secretary of State in deciding whether to release a person under section 255B(2) or 255C(2);
  - (c) the test to be applied by the Board in deciding whether to give a direction for a person’s release when determining a reference under section 255B(4), 255C(4) or 256A(1A) or (2).
- (2) An order under subsection (1) may in particular—
- (a) apply to a person recalled before the day on which the order comes into force (as well as to a person recalled on or after that day);
  - (b) amend this Chapter.]

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**Textual Amendments**

**F456** S. 256AZB inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. **137(2)**, 208(1); S.I. 2022/520, reg. 5(o)

*[<sup>F457</sup>Release at the direction of the Board*

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**Textual Amendments**

**F457** S. 256AZC and cross-heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. **139(2)(c)**, 208(1); S.I. 2022/520, reg. 5(o)

**256AZC Release at direction of Parole Board: timing**

- (1) This section applies where the Board directs the release of a person on licence under this Chapter.
- (2) The Secretary of State must give effect to the direction of the Parole Board as soon as is reasonably practicable in all the circumstances including, in particular, the need

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to make arrangements in connection with any conditions that are to be included in the person’s licence under this Chapter.

- (3) The duty under subsection (2) is subject to provision made pursuant to section 239(5C)(b).]

### *[<sup>F458</sup>Supervision of offenders*

#### **Textual Amendments**

**F458** S. 256AA and cross-heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 2(2), 22(1)** (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(b)

#### **256AA Supervision after end of sentence of prisoners serving less than 2 years**

- (1) This section applies where a person (“the offender”) has served a fixed-term sentence which was for a term of more than 1 day but less than 2 years, except where—
- (a) the offender was aged under 18 on the last day of the requisite custodial period (as defined in section 243A(3)),
  - (b) the sentence was an extended sentence imposed under [<sup>F459</sup>section 254, 266 or 279 of the Sentencing Code],
  - [<sup>F460</sup>(ba) the sentence was imposed under [<sup>F461</sup>section 265 or 278 of that Code],]
  - [<sup>F462</sup>(bb) section 247A applied to the offender in respect of the sentence,] or
  - (c) the sentence was imposed in respect of an offence committed before the day on which section 2(2) of the Offender Rehabilitation Act 2014 came into force.
- (2) The offender must comply with the supervision requirements during the supervision period, except at any time when the offender is—
- (a) in legal custody,
  - (b) subject to a licence under this Chapter or Chapter 2 of Part 2 of the 1997 Act, or
  - (c) subject to DTO supervision.
- (3) The supervision requirements are the requirements for the time being specified in a notice given to the offender by the Secretary of State (but see the restrictions in section 256AB).
- (4) “The supervision period” is the period which—
- (a) begins on the expiry of the sentence, and
  - (b) ends on the expiry of the period of 12 months beginning immediately after the offender has served the requisite custodial period (as defined in section 244(3)).
- (5) The purpose of the supervision period is the rehabilitation of the offender.
- (6) The Secretary of State must have regard to that purpose when specifying requirements under this section.
- (7) The supervisor must have regard to that purpose when carrying out functions in relation to the requirements.



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- (8) In this Chapter, “the supervisor”, in relation to a person subject to supervision requirements under this section, means a person who is for the time being responsible for discharging the functions conferred by this Chapter on the supervisor in accordance with arrangements made by the Secretary of State.
- (9) In relation to a person subject to supervision requirements under this section following a sentence of detention under [F<sup>463</sup>section 250 of the Sentencing Code], the supervisor must be—
- (a) an officer of a provider of probation services, or
  - (b) a member of the youth offending team established by the local authority in whose area the offender resides for the time being.
- (10) In relation to any other person, the supervisor must be an officer of a provider of probation services.
- (11) In this section “DTO supervision” means supervision under—
- (a) a detention and training order (including an order under section 211 of the Armed Forces Act 2006), or
  - (b) an order under [F<sup>464</sup>paragraph 3(2)(b) of Schedule 12 to the Sentencing Code] (breach of supervision requirements of detention and training order).
- (12) This section has effect subject to section 264(3C)(b) and (3D).]

#### Textual Amendments

- F459** Words in s. 256AA(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(2\)\(a\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F460** S. 256AA(1)(ba) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 18](#); S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)
- F461** Words in s. 256AA(1)(ba) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(2\)\(b\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F462** S. 256AA(1)(bb) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 7\(3\)](#), 10(4)
- F463** Words in s. 256AA(9) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(3\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F464** Words in s. 256AA(11)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(4\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

- C34** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, [Sch. 1 para. 8\(2\)\(4\)\(8\)-\(12\)](#) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [para. 3\(3\)](#), (5), s. 22(1), [Sch. 3 para. 3\(2\)](#) (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u))
- C35** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, [Sch. 1 para. 9\(2\)\(4\)\(9\)-\(12\)](#) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 5\(5\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))
- C36** S. 256AA(2)-(11) applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 6\(4\)](#), 22(1) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(f))
- C37** Ss. 256AA(2)-(11) applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 247(2)(a)(3)(4)(7), 416(1) (with [ss. 2](#), 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2

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**[<sup>F465</sup>256AB] Supervision requirements under section 256AA**

- (1) The only requirements that the Secretary of State may specify in a notice under section 256AA are—
  - (a) a requirement to be of good behaviour and not to behave in a way which undermines the purpose of the supervision period;
  - (b) a requirement not to commit any offence;
  - (c) a requirement to keep in touch with the supervisor in accordance with instructions given by the supervisor;
  - (d) a requirement to receive visits from the supervisor in accordance with instructions given by the supervisor;
  - (e) a requirement to reside permanently at an address approved by the supervisor and to obtain the prior permission of the supervisor for any stay of one or more nights at a different address;
  - (f) a requirement not to undertake work, or a particular type of work, unless it is approved by the supervisor and to notify the supervisor in advance of any proposal to undertake work or a particular type of work;
  - (g) a requirement not to travel outside the British Islands, except with the prior permission of the supervisor or in order to comply with a legal obligation (whether or not arising under the law of any part of the British Islands);
  - (h) a requirement to participate in activities in accordance with any instructions given by the supervisor;
  - (i) a drug testing requirement (see section 256D);
  - (j) a drug appointment requirement (see section 256E).
- (2) Where a requirement is imposed under subsection (1)(h), [<sup>F466</sup>paragraph 5(4) to (9) of Schedule 9 to the Sentencing Code applies] in relation to the requirement (reading references to the responsible officer as references to the supervisor).
- (3) Paragraphs (i) and (j) of subsection (1) have effect subject to the restrictions in sections 256D(2) and 256E(2).
- (4) The Secretary of State may by order—
  - (a) add requirements that may be specified in a notice under section 256AA,
  - (b) remove or amend such requirements,
  - (c) make provision about such requirements, including about the circumstances in which they may be imposed, and
  - (d) make provision about instructions given for the purposes of such requirements.
- (5) An order under subsection (4) may amend this Act.
- (6) In this section “work” includes paid and unpaid work.]

**Textual Amendments**

**F465** S. 256AB inserted (1.2.2015) by *Offender Rehabilitation Act 2014 (c. 11)*, s. 22(1), **Sch. 1 para. 1** (with *Sch. 7 para. 2*); S.I. 2015/40, art. 2(s)

**F466** Words in s. 256AB(2) substituted (1.12.2020) by *Sentencing Act 2020 (c. 17)*, s. 416(1), **Sch. 24 para. 230** (with *Sch. 24 para. 447*, *Sch. 27*); S.I. 2020/1236, reg. 2



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**Modifications etc. (not altering text)**

- C34** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11)**, para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with Sch. 7 para. 2)); S.I. 2015/40, art. 2(u))
- C35** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11)**, s. 22(1), **Sch. 3 para. 5(5)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u))
- C38** S. 256AB applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11)**, ss. 6(4), 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(f))
- C39** S. 256AB applied (with modifications) (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 247(2)(a)(3)(4), 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2
- C40** S. 256AB(4) extended (1.12.2020) by **Sentencing Act 2020 (c. 17)**, ss. 247(5), 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

[<sup>F467</sup>256AA] **Reach of supervision requirements imposed under section 256AA**

- (1) Where it appears on information to a justice of the peace that a person has failed to comply with a supervision requirement imposed under section 256AA, the justice may—
- issue a summons requiring the offender to appear at the place and time specified in the summons, or
  - if the information is in writing and on oath, issue a warrant for the offender's arrest.
- (2) Any summons or warrant issued under this section must direct the person to appear or be brought—
- before a magistrates' court acting for the local justice area in which the offender resides, or
  - if it is not known where the person resides, before a magistrates' court acting for the same local justice area as the justice who issued the summons or warrant.
- (3) Where the person does not appear in answer to a summons issued under subsection (1) (a), the court may issue a warrant for the person's arrest.
- (4) If it is proved to the satisfaction of the court that the person has failed without reasonable excuse to comply with a supervision requirement imposed under section 256AA, the court may—
- order the person to be committed to prison for a period not exceeding 14 days (subject to subsection (7)),
  - order the person to pay a fine not exceeding level 3 on the standard scale, or
  - make an order (a “supervision default order”) imposing on the person—
    - an unpaid work requirement (as defined by [<sup>F468</sup>paragraph 1 of Schedule 9 to the Sentencing Code]), or
    - a curfew requirement (as defined by [<sup>F469</sup>paragraph 9 of that Schedule]).
- (5) [<sup>F470</sup>Paragraph 10(3) of Schedule 9 to the Sentencing Code] (obligation to impose electronic monitoring requirement) applies in relation to a supervision default order that imposes a curfew requirement as it applies in relation to a community order that imposes such a requirement.

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- (6) If the court deals with the person under subsection (4), it must revoke any supervision default order which is in force at that time in respect of that person.
- (7) Where the person is under the age of 21—
- (a) an order under subsection (4)(a) in respect of the person must be for committal to a young offender institution instead of to prison, but
  - (b) the Secretary of State may from time to time direct that a person committed to a young offender institution by such an order is to be detained in a prison or remand centre instead.
- (8) A person committed to prison or a young offender institution by an order under subsection (4)(a) is to be regarded as being in legal custody.
- (9) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (10) In Schedule 19A (supervision default orders)—
- (a) Part 1 makes provision about requirements of supervision default orders, and
  - (b) Part 2 makes provision about the breach, revocation and amendment of supervision default orders.
- [ Where a court deals with a person under this section, the criminal courts charge duty <sup>F471</sup>(10A) (see section 46 of the Sentencing Code) applies to the court.]
- (11) A person dealt with under this section may appeal to the Crown Court against<sup>F472</sup>—
- (a) the order made by the court [<sup>F473</sup>under this section, and
  - (b) an order made by the court under [<sup>F474</sup>section 46 of the Sentencing Code] (criminal courts charge) when dealing with the person under this section.]]

#### Textual Amendments

- F467** S. 256AC inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 3(1)**, 22(1) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(c\)](#)
- F468** Words in s. 256AC(4)(c)(i) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 231(2)(a)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)
- F469** Words in s. 256AC(4)(c)(ii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 231(2)(b)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)
- F470** Words in s. 256AC(5) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 231(3)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)
- F471** S. 256AC(10A) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 231(4)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)
- F472** Words in s. 256AC(11) renumbered as s. 256AC(11)(a) (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 12 para. 14(a)**; [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 78](#)
- F473** S. 256AC(11)(b) and words inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 12 para. 14(b)**; [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 78](#)
- F474** Words in s. 256AC(11)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 231(5)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)

#### Modifications etc. (not altering text)

- C34** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, [Sch. 1 para. 8\(2\)\(4\)\(8\)-\(12\)](#) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [para. 3\(3\)](#), (5), s. 22(1), **Sch. 3 para. 3(2)** (with [Sch. 7 para. 2](#))); [S.I. 2015/40](#), [art. 2\(u\)](#))

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- C35** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 5\(5\)](#) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u))
- C41** S. 256AC applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 6\(4\), 22\(1\)](#) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(f))
- C42** S. 256AC applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 247\(2\)\(a\)\(3\)\(4\), 416\(1\)](#) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

F475 F476 ...

### Textual Amendments

- F475** S. 256B cross-heading omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 19](#) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F476** Ss. 256B, 256C and cross-heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 115, 151\(1\)](#) (with Sch. 15); S.I. 2012/2906, art. 2(d)

## 256B [F477 **Supervision after release of certain young offenders serving less than 12 months**]

- [F478(1) This section applies where a person (“the offender”) is released under this Chapter if—
- (a) the person is, at the time of the release, serving a sentence of detention under [F479 section 250 of the Sentencing Code] which is for a term of less than 12 months, and
  - (b) the person is aged under 18 on the last day of the requisite custodial period (as defined in section 243A(3)).

(1A) This section also applies where a person (“the offender”) is released under this Chapter if—

- (a) the person is, at the time of the release, serving a sentence of detention under [F480 section 250 or 262 of the Sentencing Code] which is for a term of less than 12 months, and
- (b) the sentence was imposed in respect of an offence committed before the day on which section 1 of the Offender Rehabilitation Act 2014 came into force.]

[ But this section does not apply where a person (“the offender”) is released from a F481(1B) sentence in respect of which section 247A applied to the offender.]

(2) The offender is to be under the supervision of—

- (a) an officer of a provider of probation services,
- (b) a social worker of a local authority, or
- (c) F482 ... a member of the youth offending team.

(3) Where the supervision is to be provided by an officer of a provider of probation services, the officer must be an officer acting in the local justice area in which the offender resides for the time being.

(4) Where the supervision is to be provided by—

- (a) a social worker of a local authority, or
- (b) a member of a youth offending team,

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the social worker or member must be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.

- (5) The supervision period begins on the offender's release and ends three months later (whether or not the offender is detained under section 256C or otherwise during that period).
- (6) During the supervision period, the offender must comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- (7) The requirements that may be specified in a notice under subsection (6) include—
  - (a) requirements [<sup>F483</sup>to submit to] electronic monitoring of the offender's compliance with any other requirements specified in the notice;
  - (b) requirements [<sup>F484</sup>to submit to] electronic monitoring of the offender's whereabouts (otherwise than for the purpose of securing compliance with requirements specified in the notice);
  - [<sup>F485</sup>(c) where the offender is aged 18 or over—
    - (i) drug testing requirements (see section 256D);
    - (ii) drug appointment requirements (see section 256E).]

[ Paragraph (c)(i) and (ii) of subsection (7) have effect subject to the restrictions in <sup>F486</sup>(7A) sections 256D(2) and 256E(2).]

<sup>F487</sup>(8) .....

[<sup>F488</sup>(9) The Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (7)(a) or (b).]

<sup>F489</sup>(10) .....

**Textual Amendments**

- F477** S. 256B heading substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 20** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F478** S. 256B(1)(1A) substituted for s. 256B(1) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(2), 22(1)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(d)
- F479** Words in s. 256B(1)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 232(2)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F480** Words in s. 256B(1A)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 232(3)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F481** S. 256B(1B) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 7(4), 10(4)**
- F482** Words in s. 256B(2)(c) omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(3), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)
- F483** Words in s. 256B(7)(a) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 2 para. 6** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F484** Words in s. 256B(7)(b) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 2 para. 6** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F485** S. 256B(7)(c) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(4)(a), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)
- F486** S. 256B(7A) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(5), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)

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- F487** S. 256B(8) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), ss. 4(6), 22(1) (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)
- F488** S. 256B(9) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), ss. 4(7), 22(1) (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)
- F489** S. 256B(10) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), ss. 4(8), 22(1) (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)

**Modifications etc. (not altering text)**

- C34** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), para. 3(3), (5), s. 22(1), Sch. 3 para. 3(2) (with Sch. 7 para. 2)); S.I. 2015/40, art. 2(u)

**256C Breach of supervision requirements [F490: imposed under section 256B]**

- (1) Where an offender is under supervision under section 256B and it appears on information to a justice of the peace that the offender has failed to comply with requirements under section 256B(6), the justice may—
  - (a) issue a summons requiring the offender to appear at the place and time specified in the summons, or
  - (b) if the information is in writing and on oath, issue a warrant for the offender's arrest.
- (2) Any summons or warrant issued under this section must direct the offender to appear or be brought—
  - (a) before a court acting for the local justice area in which the offender resides, or
  - (b) if it is not known where the offender resides, before a court acting for same local justice area as the justice who issued the summons or warrant.
- (3) Where the offender does not appear in answer to a summons issued under subsection (1)(a), the court may issue a warrant for the offender's arrest.
- (4) If it is proved to the satisfaction of the court that the offender has failed to comply with requirements under section 256B(6), the court may—
  - (a) order the offender to be detained, in prison or such youth detention accommodation as the Secretary of State may determine, for such period, not exceeding 30 days, as the court may specify, or
  - (b) [F491: order the offender to pay] a fine not exceeding level 3 on the standard scale.
- (5) An offender detained in pursuance of an order under subsection (4)(a) is to be regarded as being in legal custody.
- (6) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (7) An offender may appeal to the Crown Court against any order made under subsection (4)(a) or (b).
- (8) In this section “court” means—
  - (a) if the offender has attained the age of 18 years at the date of release, a magistrates' court other than a youth court;
  - (b) if the offender is under the age of 18 years at the date of release, a youth court.]

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#### Textual Amendments

- F490** Words in s. 256C heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 22](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F491** Words in s. 256C(4)(b) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 21](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

#### Modifications etc. (not altering text)

- C34** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), [Sch. 3 para. 3\(2\)](#) (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u)

### [<sup>F492</sup>256D] Drug testing requirements

- (1) “Drug testing requirement”, in relation to an offender subject to supervision under this Chapter, means a requirement that, when instructed to do so by the supervisor, the offender provide a sample mentioned in the instruction for the purpose of ascertaining whether the offender has a specified Class A drug or a specified Class B drug in his or her body.
- (2) A drug testing requirement may be imposed on an offender subject to supervision under this Chapter only if—
  - (a) the Secretary of State is satisfied of the matters in subsection (3), and
  - (b) the requirement is being imposed for the purpose of determining whether the offender is complying with any other supervision requirement.
- (3) Those matters are—
  - (a) that the misuse by the offender of a specified class A drug or a specified class B drug caused or contributed to an offence of which the offender has been convicted or is likely to cause or contribute to the commission of further offences by the offender, and
  - (b) that the offender is dependent on, or has a propensity to misuse, a specified class A drug or a specified class B drug.
- (4) An instruction given for the purpose of a drug testing requirement must be given in accordance with guidance given from time to time by the Secretary of State.
- (5) The Secretary of State may make rules regulating the provision of samples in accordance with such an instruction.
- (6) In this section, “specified Class A drug” and “specified Class B drug” have the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

#### Textual Amendments

- F492** Ss. 256D, 256E inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 1 para. 2](#) (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(s)

#### Modifications etc. (not altering text)

- C34** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), [Sch. 3 para. 3\(2\)](#) (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u)



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- C43** S. 256D applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11), ss. 6(4), 22(1)** (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(f))
- C44** S. 256D applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11), s. 22(1), Sch. 3 para. 5(5)** (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(u))
- C45** S. 256D applied (with modifications) (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 247(2)(b)(3)(4), 416(1)** (with **ss. 2, 398(1), 406, Sch. 27**); S.I. 2020/1236, reg. 2

## 256E Drug appointment requirements

- (1) “Drug appointment requirement”, in relation to an offender subject to supervision under this Chapter, means a requirement that the offender, in accordance with instructions given by the supervisor, attend appointments with a view to addressing the offender's dependency on, or propensity to misuse, a controlled drug.
- (2) A drug appointment requirement may be imposed on an offender subject to supervision under this Chapter only if—
  - (a) the supervisor has recommended to the Secretary of State that such a requirement be imposed on the offender, and
  - (b) the Secretary of State is satisfied of the matters in subsection (3).
- (3) Those matters are—
  - (a) that the misuse by the offender of a controlled drug caused or contributed to an offence of which the offender has been convicted or is likely to cause or contribute to the commission of further offences by the offender,
  - (b) that the offender is dependent on, or has a propensity to misuse, a controlled drug,
  - (c) that the dependency or propensity requires, and may be susceptible to, treatment, and
  - (d) that arrangements have been made, or can be made, for the offender to have treatment.
- (4) The requirement must specify—
  - (a) the person with whom the offender is to meet or under whose direction the appointments are to take place, and
  - (b) where the appointments are to take place.
- (5) The person specified under subsection (4)(a) must be a person who has the necessary qualifications or experience.
- (6) The only instructions that the supervisor may give for the purposes of the requirement are instructions as to—
  - (a) the duration of each appointment, and
  - (b) when each appointment is to take place.
- (7) For the purposes of this section, references to a requirement to attend an appointment do not include a requirement to submit to treatment.
- (8) In this section, “controlled drug” has the same meaning as in the Misuse of Drugs Act 1971.]



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### Textual Amendments

**F492** Ss. 256D, 256E inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 1 para. 2** (with [Sch. 7 para. 3](#)); [S.I. 2015/40](#), art. 2(s)

### Modifications etc. (not altering text)

**C34** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with [Sch. 7 para. 2](#))); [S.I. 2015/40](#), art. 2(u)

**C46** S. 256E applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 6(4)**, 22(1) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(f))

**C47** S. 256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 5(5)** (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(u))

**C48** S. 256E applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **s. 247(2)(b)(3)(4)**, 416(1) (with **ss. 2**, 398(1), 406, **Sch. 27**); [S.I. 2020/1236](#), reg. 2

### *Additional days*

## 257 Additional days for disciplinary offences

- (1) Prison rules, that is to say, rules made under section 47 of the Prison Act 1952 (c. 52), may include provision for the award of additional days—
- (a) to fixed-term prisoners, or
  - (b) conditionally on their subsequently becoming such prisoners, to persons on remand,
- who (in either case) are guilty of disciplinary offences.
- (2) Where additional days are awarded to a fixed-term prisoner, or to a person on remand who subsequently becomes such a prisoner, and are not remitted in accordance with prison rules—
- (a) any period which he must serve before becoming entitled to or eligible for release under this Chapter,
  - (b) any period which he must serve before he can be removed from prison under section 260, and
  - (c) any period for which a licence granted to him under this Chapter remains in force,
- is extended by the aggregate of those additional days.

### Commencement Information

**I113** S. 257 partly in force; s. 257 not in force at Royal Assent, see s. 336(3); s. 257 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2**, **Sch.**; s. 257(1) in force at 7.3.2005 by [S.I. 2005/373](#), **art. 2**; s. 257(1)(2)(a)(b) in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 19** (subject to **art. 2(2)**, **Sch. 2**)

**I114** S. 257(2)(c) in force at 3.12.2012 for specified purposes by [S.I. 2012/2905](#), **art. 2**

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### *Fine defaulters and contemnors*

#### **258 Early release of fine defaulters and contemnors**

- (1) This section applies in relation to a person committed to prison—
    - (a) in default of payment of a sum adjudged to be paid by a conviction, or
    - (b) for contempt of court or any kindred offence.
  - (2) As soon as a person to whom this section applies has served one-half of the term for which he was committed, it is the duty of the Secretary of State to release him unconditionally.
- [<sup>F493</sup>(2A) Subsection (2) is subject to paragraph 35 of Schedule 20B (transitional cases).]
- [<sup>F494</sup>(2B) Subsection (2) does not apply to a person within subsection (1)(a) if the sum in question is a sum of more than £10 million ordered to be paid under a confiscation order made under Part 2 of the Proceeds of Crime Act 2002.
- (2C) The Secretary of State may by order amend the amount for the time being specified in subsection (2B).]
- (3) Where a person to whom this section applies is also serving one or more sentences of imprisonment, nothing in this section [<sup>F495</sup>or in paragraph 35 of Schedule 20B] requires the Secretary of State to release him until he is also required to release him in respect of that sentence or each of those sentences.
- [<sup>F496</sup>(3A) The reference in subsection (3) to sentences of imprisonment includes sentences of detention under section 91 or 96 of [<sup>F497</sup>the PCC(S)A 2000, under section 250 [<sup>F498</sup>, 252A], 254, 262, 265 [<sup>F499</sup>, 266 or 268A] of the Sentencing Code] or under section [<sup>F500</sup>226A, 226B,] 227 [<sup>F501</sup>, 228 or 236A] of this Act.]
- (4) The Secretary of State may at any time release unconditionally a person to whom this section applies if he is satisfied that exceptional circumstances exist which justify the person's release on compassionate grounds.

#### **Textual Amendments**

- F493** S. 258(2A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 17 para. 5\(2\)](#); S.I. 2012/2906, art. 2(o)
- F494** S. 258(2B)(2C) inserted (1.6.2015) by [Serious Crime Act 2015](#) (c. 9), [ss. 10\(3\)](#), 88(1) (with s. 86(2)); S.I. 2015/820, reg. 3(g)
- F495** Words in s. 258(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 17 para. 5\(3\)](#); S.I. 2012/2906, art. 2(o)
- F496** S. 258(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 117\(6\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F497** Words in s. 258(3A) substituted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), [Sch. 24 para. 233](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F498** Word in s. 258(3A) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), s. 50(1)(i), [Sch. 13 para. 21\(6\)](#)
- F499** Words in s. 258(3A) substituted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), s. 50(2)(v), [Sch. 13 para. 9\(8\)](#)
- F500** Words in s. 258(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 20 para. 8](#); S.I. 2012/2906, art. 2(r)

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**F501** Words in s. 258(3A) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\), Sch. 1 para. 19](#); S.I. 2015/778, art. 3, Sch. 1 para. 72

**Modifications etc. (not altering text)**

**C49** S. 258 extended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 121\(2\), 151\(1\)](#); S.I. 2012/2906, art. 2(d)

**Commencement Information**

**I115** S. 258 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 19 (subject to [art. 2\(2\)](#), Sch. 2)

*Persons liable to removal from the United Kingdom*

**259 Persons liable to removal from the United Kingdom**

For the purposes of this Chapter a person is liable to removal from the United Kingdom if—

- (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 (c. 77) and has been notified of a decision to make a deportation order against him,
- (b) he is liable to deportation under section 3(6) of that Act,
- (c) he has been notified of a decision to refuse him leave to enter the United Kingdom,
- (d) he is an illegal entrant within the meaning of section 33(1) of that Act, or
- (e) he is liable to removal under section 10 of the Immigration and Asylum Act 1999 (c. 33).

**Commencement Information**

**I116** S. 259 wholly in force at 4.4.2005; s. 259 not in force at Royal Assent, see s. 336(3); s. 259 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2, Sch.](#); s. 259 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 19 (subject to [art. 2\(2\)](#), Sch. 2)

PROSPECTIVE

**[<sup>F502</sup>259A] Persons eligible for removal from the United Kingdom**

- (1) For the purposes of this Chapter, to be “eligible for removal from the United Kingdom” a person must show, to the satisfaction of the Secretary of State, that the condition in subsection (2) is met.
- (2) The condition is that the person has the settled intention of residing permanently outside the United Kingdom if removed from prison under section 260.
- (3) The person must not be one who is liable to removal from the United Kingdom.]

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**Textual Amendments**

**F502** S. 259A inserted (prosp.) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 34\(2\), 153](#)

**260 Early removal of prisoners liable to removal from United Kingdom**

- [<sup>F503</sup>(1) Where a fixed-term prisoner is liable to removal from the United Kingdom, the Secretary of State may remove the prisoner from prison under this section at any time after the prisoner has served the minimum pre-removal custodial period (whether or not the Board has directed the prisoner’s release under this Chapter).
- (2) The minimum pre-removal custodial period is the longer of—
- (a) one half of the requisite custodial period, and
  - (b) the requisite custodial period less [<sup>F504</sup>545 days].]

[<sup>F505</sup>(2C) [<sup>F506</sup>Subsection (1) does] do not apply in relation to a prisoner to whom section 247A applies.]

<sup>F507</sup>(3) .....

<sup>F508</sup>(3A) .....

(4) A prisoner removed from prison under this section—

    - (a) is so removed only for the purpose of enabling the Secretary of State to remove him from the United Kingdom under powers conferred by—
      - (i) Schedule 2 or 3 to the Immigration Act 1971, or
      - (ii) section 10 of the Immigration and Asylum Act 1999 (c. 33), and
    - [<sup>F509</sup>(b) so long as remaining in the United Kingdom, and in the event of a return to the United Kingdom after removal, is liable to be detained in pursuance of his sentence.]

[<sup>F510</sup>(4A) Where a person has been removed from prison under this section, a day on which the person has not spent any part of the day in prison or otherwise detained in pursuance of their sentence is not, unless the Secretary of State otherwise directs, to be included—

    - (a) when determining for the purposes of any provision of this Chapter how much of their sentence they have (or would have) served, or
    - (b) when determining for the purposes of section 244ZC(2), 244A(2)(b) or 246A(4)(b) the date of an anniversary of a disposal of a reference of the person’s case to the Board (so that the anniversary is treated as falling *x* days after the actual anniversary, where *x* is the number of days on which the person has not spent any part of the day in prison or otherwise detained in pursuance of their sentence).

(4B) Where—

    - (a) before a prisoner’s removal from prison under this section their case had been referred to the Board under section 244ZB(3), 244ZC(2), 244A(2) or 246A(4), and
    - (b) the person is removed from the United Kingdom before the Board has disposed of the reference,

the reference lapses upon the person’s removal from the United Kingdom (and paragraph 8 of Schedule 19B applies in the event of their return).]

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- <sup>F511</sup>(5) . . . . .
- (6) The Secretary of State may by order—
- [<sup>F512</sup>(a) amend the fraction for the time being specified in subsection (2)(a);
- (b) amend the time period for the time being specified in subsection (2)(b).]
- <sup>F513</sup>(7) . . . . .
- [<sup>F514</sup>(8) Paragraphs 36 and 37 of Schedule 20B (transitional cases) make further provision about early removal of certain prisoners.]
- [<sup>F515</sup>(9) Subsection (2C) does not affect the continued liability to detention under subsection (4)(b) of a prisoner removed from prison under this section before subsection (2C) came into force and in such a case—
- (a) the “requisite custodial period” in subsection (4)(b) has the meaning given by section 247A(8), and
- (b) subsection (5) is to be read as including reference to section 247A.]

#### Textual Amendments

- F503** S. 260(1)(2) substituted for s. 260(1)-(2B) (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 47\(3\)](#), 87(1); S.I. 2022/590, [regs. 1\(2\)](#), 2, [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))
- F504** Words in s. 260(2)(b) substituted (16.1.2024) by [The Criminal Justice Act 2003 \(Removal of Prisoners for Deportation\) Order 2023 \(S.I. 2023/1368\)](#), [arts. 1\(2\)](#), 2
- F505** S. 260(2C) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 7\(5\)\(c\)](#), 10(4)
- F506** Words in s. 260(2C) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 47\(4\)](#), 87(1); S.I. 2022/590, [regs. 1\(2\)](#), 2, [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))
- F507** S. 260(3) repealed (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(6\)](#), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/2712, [art. 2](#), [Sch. paras. 5](#), 19(2)(b) (subject to [arts. 3](#), 4)
- F508** S. 260(3A) repealed (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(6\)](#), 149, 153(7), [Sch. 28 Pt. 2](#); S.I. 2009/2606, [art. 3\(j\)\(i\)](#)
- F509** S. 260(4)(b) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 47\(5\)](#), 87(1); S.I. 2022/590, [regs. 1\(2\)](#), 2, [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))
- F510** S. 260(4A)(4B) inserted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 47\(6\)](#), 87(1); S.I. 2022/590, [regs. 1\(2\)](#), 2, [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))
- F511** S. 260(5) omitted (28.6.2022) by virtue of [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 47\(7\)](#), 87(1); S.I. 2022/590, [regs. 1\(2\)](#), 2, [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))
- F512** S. 260(6)(a)(b) substituted for s. 260(6)(a)-(c) (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 47\(8\)](#), 87(1); S.I. 2022/590, [regs. 1\(2\)](#), 2, [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))
- F513** S. 260(7) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 14\(4\)](#), 95(1) (with [s. 14\(7\)](#)); S.I. 2015/778, [art. 3](#), [Sch. 1 para. 10](#)
- F514** S. 260(8) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 17 para. 6](#); S.I. 2012/2906, [art. 2\(o\)](#)
- F515** S. 260(9) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 7\(5\)\(d\)](#), 10(4)

#### Commencement Information

- I117** S. 260 wholly in force at 4.4.2005; s. 260 not in force at Royal Assent, see [s. 336\(3\)](#); s. 260(6) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 260 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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**[<sup>F516</sup>261 Removal under section 260 and subsequent return to UK: effect on sentence**

Where a person—

- (a) has been removed from prison under section 260 on or after the day on which section 47 of the Nationality and Borders Act 2022 came into force,
- (b) has been removed from the United Kingdom following that removal from prison, and
- (c) returns to the United Kingdom,

this Chapter applies to the person with the modifications set out in Schedule 19B.]

**Textual Amendments**

**F516** S. 261 substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), **ss. 47(9)**, 87(1); S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 24** (with **Sch. 2 para. 9**)

**[<sup>F517</sup>262 Prisoners liable to removal from United Kingdom: modifications of Criminal Justice Act 1991**

.....

**Textual Amendments**

**F517** S. 262 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 16 para. 16**; S.I. 2012/2906, art. 2(n)

*Consecutive or concurrent terms*

**263 Concurrent terms**

(1) This section applies where—

- (a) a person (“the offender”) has been sentenced <sup>F518</sup> . . . to two or more terms of imprisonment which are wholly or partly concurrent, and
- (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.

(2) Where this section applies—

- (a) nothing in this Chapter requires the Secretary of State to release the offender in respect of any of the terms unless and until he is required to release him in respect of each of the others,

<sup>F519</sup>(aza) nothing in this Chapter requires the Secretary of State to refer the offender’s case to the Board in respect of any of the terms unless and until the Secretary of State is required either—

- (i) to refer the offender’s case to the Board, or
- (ii) to release the offender,

in respect of each of the others,]

<sup>F520</sup>(aa) the offender's release is to be unconditional if section 243A so requires in respect of each of the sentences (and in any other case is to be on licence),]



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- (b) [<sup>F521</sup>section 246] does not authorise the Secretary of State to release him on licence under that section in respect of any of the terms unless and until that section authorises the Secretary of State to do so in respect of each of the others [<sup>F522</sup>to which that section applies],
- (c) on and after his release under this Chapter [<sup>F523</sup>(unless that release is unconditional)] the offender is to be on licence<sup>F524</sup>—
- (i) until the last date on which the offender is required to be on licence in respect of any of the terms, and
  - (ii) subject to such conditions as are] required by this Chapter in respect of any of the sentences.

[<sup>F525</sup>(2A) Where this section applies, nothing in section 260 authorises the Secretary of State to remove the offender from prison in respect of any of the terms unless and until that section authorises the Secretary of State to do so in respect of each of the others.]

<sup>F526</sup>(3) . . . . .

(4) In this section “term of imprisonment” includes a determinate sentence of detention under section 91 [<sup>F527</sup>or 96] of [<sup>F528</sup>the PCC(S)A 2000, under section 250, [<sup>F529</sup>252A,] 254, 262, 265 [<sup>F530</sup>, 266 or 268A] of the Sentencing Code] or under section [<sup>F531</sup>226A, 226B,][<sup>F532</sup>227 ][<sup>F533</sup>, 228 or 236A] of this Act.

[<sup>F534</sup>(5) This section is subject to paragraphs 21, 31 and 32 of Schedule 20B (transitional cases).]

#### Textual Amendments

- F518** Words in s. 263(1)(a) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378, 383, Sch. 16 para. 226, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F519** S. 263(2)(aza) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(9), 208(5)(p)**
- F520** S. 263(2)(aa) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 13(a)**; S.I. 2012/2906, art. 2(l)
- F521** Words in s. 263(2)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 116(8), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F522** Words in s. 263(2)(b) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 13(b)**; S.I. 2012/2906, art. 2(l)
- F523** Words in s. 263(2)(c) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 13(c)**; S.I. 2012/2906, art. 2(l)
- F524** Words in s. 263(2)(c) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 116(9), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F525** S. 263(2A) inserted (28.6.2022 for E.W.) by Nationality and Borders Act 2022 (c. 36), **ss. 47(10), 87(1)**; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 24 (with Sch. 2 para. 9)
- F526** S. 263(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 31**; S.I. 2012/2906, art. 2(h)
- F527** Words in s. 263(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(7)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F528** Words in s. 263(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 235** (with Sch. 27); S.I. 2020/1236, reg. 2
- F529** Word in s. 263(4) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(7)**



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- F530** Words in s. 263(4) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(9)**
- F531** Words in s. 263(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 11**; S.I. 2012/2906, art. 2(r)
- F532** Words in s. 263(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(7)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F533** Words in s. 263(4) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 22**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F534** S. 263(5) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 7**; S.I. 2012/2906, art. 2(o)

#### Commencement Information

- I118** S. 263 wholly in force at 4.4.2005; s. 263 not in force at Royal Assent, see s. 336(3); s. 263 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 263 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to **art. 2(2), Sch. 2**)

## 264 Consecutive terms

- (1) This section applies where—
- (a) a person (“the offender”) has been sentenced to two or more terms of imprisonment which are to be served consecutively on each other, and
  - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions,<sup>F535</sup> ...
  - <sup>F535</sup>(c) .....
- [<sup>F536</sup>(2A) Subsection (2B) applies if each of the terms of imprisonment is subject to initial automatic release.
- (2B) Nothing in this Chapter requires the Secretary of State to release the offender until the offender has served a period equal to the aggregate of the length of the minimum custodial periods in each of the terms.
- (2C) Subsections (2D) and (2E) apply if at least one of the terms of imprisonment is subject to initial Parole Board referral.
- (2D) Nothing in this Chapter requires the Secretary of State to refer the offender’s case to the Board until the offender has served a period equal to the aggregate length of the minimum custodial periods in each of the terms.
- (2E) Nothing in this Chapter requires the Secretary of State to release the offender until—
- (a) the Board has directed the release of the offender, or
  - (b) the offender has served a period equal to the aggregate length of—
    - (i) the minimum custodial periods in each of the terms (if any) that is subject to initial automatic release, and
    - (ii) the maximum custodial periods in each of the terms that is subject to initial Parole Board referral.
- (2F) For the purposes of subsections (2A) to (2E)—
- (a) a term of imprisonment is “subject to initial automatic release” if it is a sentence in respect of which—

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- (i) section 243A(1), 244(1), 244ZA(1), 246A(2) or 247 applies to the offender, or
  - (ii) section 247A applies, but subsections (3) to (5) of that section do not apply, to the offender;
  - (b) a term of imprisonment is “subject to initial Parole Board referral” if it is a sentence in respect of which—
    - (i) section 244ZC, 244A, 246A(3) to (7) or 247A(3) to (5) applies to the offender, or
    - (ii) a notice under section 244ZB(4) is in force.]
- [<sup>F537</sup>(3B) The offender's release under this Chapter is to be unconditional if—
- (a) the aggregate length of the terms of imprisonment is less than 12 months, and
  - (b) section 243A so requires in respect of each of the sentences,
- but in any other case is to be on licence.
- (3C) If the offender is released on licence under this Chapter—
- (a) the offender is to be on licence, on and after the release, until the offender would, but for the release, have served a term equal in length to the aggregate length of the terms of imprisonment (but see section 264B);
  - (b) the offender is to be subject to supervision requirements under section 256AA if (and only if)—
    - (i) section 256AA so requires in respect of one or more of the sentences, and
    - (ii) the aggregate length of the terms of imprisonment is less than 2 years.
- (3D) If the offender is subject to supervision requirements under section 256AA, the supervision period for the purposes of that section begins on the expiry of the period during which the offender is on licence by virtue of subsection (3C)(a).
- (3E) When the offender is released under this Chapter (whether unconditionally or on licence), the offender is to be subject to supervision requirements under section 256B if that section so requires in respect of one or more of the sentences.]
- <sup>F538</sup>(4) .....
- <sup>F538</sup>(5) .....
- [<sup>F539</sup>(6) In this section “[<sup>F540</sup>minimum] custodial period”[<sup>F541</sup>, except if subsection (6A) applies,] means—
- (a) in relation to an extended sentence imposed under section 226A or 226B [<sup>F542</sup>or under section 254, 266 or 279 of the Sentencing Code], two-thirds of the appropriate custodial term determined by the court under that section,
  - (b) in relation to an extended sentence imposed under section 227 or 228, one-half of the appropriate custodial term determined by the court under that section,
  - (c) in relation to a sentence imposed under section 236A [<sup>F543</sup>or under section 265 or 278 of the Sentencing Code][<sup>F544</sup>before the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force], one-half of the appropriate custodial term determined by the court under that section, and
- [<sup>F545</sup>(ca) in relation to a sentence imposed under section 265 or 278 of the Sentencing Code on or after the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force, two-thirds of the appropriate custodial term determined by the court under that section,]

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- [<sup>F546</sup>(cb) in relation to a sentence in respect of which section 244ZA applies to the offender, two-thirds of the sentence,]  
(d) in relation to any other sentence, one-half of the sentence.]
- [<sup>F547</sup>(6A) In this section “[<sup>F548</sup>minimum] custodial period”, in the case of a sentence imposed on a person to whom section 247A applies, means—
- [ in relation to a sentence within subsection (2A) of that section, the whole  
<sup>F549</sup>(za) of the “appropriate custodial term” within the meaning of that section (see subsection (8) of that section),]
- (a) in relation to an extended sentence [<sup>F550</sup>(not being one to which paragraph (za) applies)] imposed under section 226A, 226B, 227 or [<sup>F551</sup>228 of this Act or section 254, 266 or 279 of the Sentencing Code,] or a sentence imposed under section [<sup>F552</sup>236A of this Act or section [<sup>F553</sup>252A, 265] or 278 of that Code,] two-thirds of the appropriate custodial term determined by the court under that section;
- (b) in relation to any other sentence, two-thirds of the sentence.]
- [<sup>F554</sup>(6B) In this section “maximum custodial period” means—
- (a) in relation to a sentence imposed under section 226A, 226B, 227, 228 or 236A of this Act or section 252A, 254, 265, 266, 278 or 279 of the Sentencing Code, the “appropriate custodial term” determined by the court under that section;
- (b) in relation to any other sentence, the term of the sentence.]
- (7) This section applies to a determinate sentence of detention under section 91 [<sup>F555</sup>or 96] of [<sup>F556</sup>the PCC(S)A 2000, under section 250, [<sup>F557</sup>252A,] 254, 262, 265 [<sup>F558</sup>, 266 or 268A] of the Sentencing Code] or under section [<sup>F559</sup>226A, 226B,][<sup>F560</sup>227 ][<sup>F561</sup>, 228 or 236A] of this Act as it applies to a term of imprisonment <sup>F562</sup>... .
- [<sup>F563</sup>(8) This section is subject to paragraphs 21, 22, 31, 32 and 33 of Schedule 20B (transitional cases).]

### Textual Amendments

- F535** S. 264(1)(c) and preceding word omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 32(2)**; S.I. 2012/2906, art. 2(h)
- F536** S. 264(2A)-(2F) substituted for s. 264(2) (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 144(10)(a)**, 208(5)(p)
- F537** S. 264(3B)-(3E) substituted for s. 264(3)(3A) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 5(2)**, 22(1) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(e)
- F538** S. 264(4)(5) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 14(d)**; S.I. 2012/2906, art. 2(l)
- F539** S. 264(6) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 1 para. 23(2)**; S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)
- F540** Word in s. 264(6) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 144(10)(b)**, 208(5)(p)
- F541** Words in s. 264(6) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 7(7)(a)**, 10(4)
- F542** Words in s. 264(6)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 236(2)(a)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F543** Words in s. 264(6)(c) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 236(2)(b)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F544** Words in s. 264(6)(c) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 131(3)(a)**, 208(5)(m)

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- F545** S. 264(6)(ca) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 131(3)(b), 208(5)(m)**
- F546** S. 264(6)(cb) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 130(6), 208(5)(m)**
- F547** S. 264(6A) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 7(7)(b), 10(4)**
- F548** Word in s. 264(6A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(10)(b), 208(5)(p)**
- F549** S. 264(6A)(za) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 45(4)(a)**
- F550** Words in s. 264(6A)(a) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 45(4)(b)**
- F551** Words in s. 264(6A)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 236(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F552** Words in s. 264(6A)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 236(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F553** Words in s. 264(6A)(a) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(8)(a)**
- F554** S. 264(6B) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(10)(c), 208(5)(p)**
- F555** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(8)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F556** Words in s. 264(7) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 236(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F557** Word in s. 264(7) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(8)(b)**
- F558** Words in s. 264(7) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(10)**
- F559** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 12(3)**; S.I. 2012/2906, art. 2(r)
- F560** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(8)(b), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F561** Words in s. 264(7) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 23(3)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F562** Words in s. 264(7) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 14(f)**; S.I. 2012/2906, art. 2(l)
- F563** S. 264(8) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 8**; S.I. 2012/2906, art. 2(o)

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#### Modifications etc. (not altering text)

- C50** S. 264(6)(d) modified (1.4.2020) by The Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 (S.I. 2020/158), arts. 1, 4 (with art. 5)

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#### Commencement Information

- I119** S. 264 partly in force; s. 264 not in force at Royal Assent, see s. 336(3); s. 264 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 264(1)-(3)(6)(7) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2)

<sup>F564</sup> **264A** Consecutive terms: intermittent custody

.....

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F564** S. 264A omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 33](#); S.I. 2012/2906, art. 2(h)

### [<sup>F565</sup>264AA] **Consecutive terms: detention and training orders**

(1) This section applies where, by virtue of section 237(4) of the Sentencing Code or section 106A(3)(b) of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order made in the case of a person (“the offender”) who is subject to a relevant sentence of detention is to take effect at the time when the offender would otherwise be released under this Chapter.

[ In a case where the detention and training order was made on or after the day on <sup>F566</sup>(1A) which section 159 of the Police, Crime, Sentencing and Courts Act 2022 came into force, section 246(1)(a) is to be read as if, instead of conferring a power to release the offender, it conferred a power to determine that the Secretary of State would, but for the detention and training order, have directed the offender’s release under that section.]

(2) Any direction in respect of the offender by the Parole Board under—

- (a) subsection (5)(b) of section 246A,
- (b) subsection (4)(b) of section 247A, or
- (c) sub-paragraph (3) of paragraph 15 of Schedule 20B,

is to be expressed as a direction that the Board would, but for the detention and training order, have directed the offender's release under that section [<sup>F567</sup>or paragraph].

(3) In this section—

- (a) references to a detention and training order include an order made under section 211 of the Armed Forces Act 2006, and
- (b) “relevant sentence of detention” has the meaning given by section 248(4) of the Sentencing Code.]

#### Textual Amendments

**F565** S. 264AA inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 237](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F566** S. 264AA(1A) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 159\(3\)](#), [208\(5\)\(t\)](#)

**F567** Words in s. 264AA(2) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 45\(5\)](#)

### [<sup>F568</sup>264B] **Consecutive terms: supplementary**

(1) This section applies in a case in which section 264 applies where—

- (a) the offender is released on licence under this Chapter,
- (b) the aggregate length of the terms of imprisonment mentioned in section 264(1)(a) is less than 12 months, and
- (c) those terms include one or more terms of imprisonment (“short transitional terms”) which were imposed in respect of an offence committed before the day

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on which section 1 of the Offender Rehabilitation Act 2014 came into force, as well as one or more terms imposed in respect of an offence committed on or after that day.

- (2) The offender is to be on licence until the offender would, but for the release, have served a term equal in length to the aggregate of—
- (a) the custodial period in relation to each of the short transitional terms, and
  - (b) the full length of each of the other terms.
- (3) In this section “custodial period” has the same meaning as in section 264.]

#### Textual Amendments

**F568** S. 264B inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 5\(3\)](#), [22\(1\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(e\)](#)

#### Modifications etc. (not altering text)

- C51** S. 264B applied by 1997 c. 43, Sch. 1 para. 8(2)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [s. 22\(1\)](#), [Sch. 3 para. 3\(2\)\(a\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(u\)](#))
- C52** S. 264B applied by 1997 c. 43, Sch. 1 para. 9(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [s. 22\(1\)](#), [Sch. 3 para. 3\(3\)\(a\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(u\)](#))
- C53** S. 264B applied by 1997 c. 43, Sch. 1 para. 9(2)(a)(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [s. 22\(1\)](#), [Sch. 3 para. 5\(2\)\(3\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(u\)](#))

### *Restriction on consecutive sentences for released prisoners*

#### <sup>F569</sup>265 Restriction on consecutive sentences for released prisoners

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#### Textual Amendments

**F569** S. 265 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](#)

PROSPECTIVE

### *Drug testing requirements*

#### <sup>F570</sup>266 Release on licence etc: drug testing requirements

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#### Textual Amendments

**F570** S. 266 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 118\(2\)](#), [151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906](#), [art. 2\(d\)](#)

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### Supplemental

#### 267 Alteration by order of relevant proportion of sentence

The Secretary of State may by order provide that any reference in [<sup>F571</sup>section 243A(3) (a),] section 244(3)(a), section 247(2) or [<sup>F572</sup>section 264(6)(d)] to a particular proportion of a prisoner's sentence is to be read as a reference to such other proportion of a prisoner's sentence as may be specified in the order.

##### Textual Amendments

- F571** Words in s. 267 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 15](#); S.I. 2012/2906, art. 2(l)
- F572** Words in s. 267 substituted (7.2.2020) by [The Criminal Justice and Courts Act 2015 \(Consequential Amendment\) Regulations 2020 \(S.I. 2020/157\)](#), regs. 1, 3

#### [<sup>F573</sup>267A] Application of Chapter 6 to pre-4 April 2005 cases

Schedule 20A (which modifies certain provisions of this Chapter as they apply to persons serving a sentence for an offence committed before 4 April 2005) has effect.]

##### Textual Amendments

- F573** S. 267A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 2](#); S.I. 2012/2906, art. 2(n)

##### Modifications etc. (not altering text)

- C54** S. 267A applied by [Crime \(Sentences\) Act 1997 \(c. 43\)](#), Sch. 1 paras. 8(2)(a)(4)(a), 9(2)(a)(4)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 paras. 7, 8](#); S.I. 2012/2906, art. 2(n))

#### [<sup>F574</sup>267B] Modification of Chapter 6 in certain transitional cases

Schedule 20B (which modifies this Chapter so as to restate, with minor amendments, the effect of transitional provisions relating to the coming into force of this Chapter) has effect.]

##### Textual Amendments

- F574** S. 267B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 9](#); S.I. 2012/2906, art. 2(o)

##### Modifications etc. (not altering text)

- C55** S. 267B applied by [Crime \(Sentences\) Act 1997 \(c. 43\)](#), Sch. 1 paras. 8(2)(a)(4)(a), 9(2)(a)(4)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 paras. 7, 8](#); S.I. 2012/2906, art. 2(n))



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**[<sup>F575</sup>267C Fixed-term prisoners also serving life sentence**

- (1) This section applies where a fixed-term prisoner is also serving one or more sentences by virtue of which the life sentence provisions apply to the offender.
- (2) Nothing in this Chapter requires the Secretary of State to release the prisoner unless the Secretary of State is also required by the life sentence provisions to release the prisoner.
- (3) Nothing in this Chapter requires the Secretary of State to refer the prisoner’s case to the Board unless the Secretary of State is also required by the life sentence provisions to—
  - (a) refer the prisoner’s case to the Board, or
  - (b) release the prisoner.
- (4) The reference in subsection (3)(a) to a requirement of the Secretary of State to refer a prisoner’s case to the Board does not include a requirement to do so under section 31A(3) of the 1997 Act.
- (5) The fact that the prisoner is also serving a fixed-term sentence is to be ignored in determining, for the purposes of subsections (2) and (3), what the life sentence provisions require.
- (6) In this section “the life sentence provisions” means Chapter 2 of Part 2 of the 1997 Act.]

**Textual Amendments**

**F575** S. 267C inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 144(11), 208(5)(p)

**268 Interpretation of Chapter 6**

[<sup>F576</sup>(1)] In this Chapter —

“the 1997 Act” means the Crime (Sentences) Act 1997 (c. 43);

“the Board” means the Parole Board;

[<sup>F577</sup>“fixed-term prisoner” and “fixed-term sentence”] have the meaning given by section 237(1) [<sup>F578</sup>(as extended by section 237(1A));]

<sup>F579</sup>

[<sup>F580</sup>“offender subject to supervision under this Chapter” means a person who is subject to supervision requirements under section 256AA or 256B;]

“prison” and “prisoner” are to be read in accordance with section 237(2);

[<sup>F580</sup>“supervision default order” means an order described in section 256AC(4)(c), whether made under that provision or under paragraph 9 of Schedule 19A;]

[<sup>F580</sup>“the supervision period”, in relation to an offender subject to supervision under this Chapter, has the meaning given in section 256AA or 256B (as appropriate);]

[<sup>F580</sup>“the supervisor”—

- (a) in relation to an offender subject to supervision requirements under section 256AA, has the meaning given in that section, and

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(b) in relation to an offender subject to supervision requirements under section 256B, means the person who provides supervision under that section;]

F579 .....  
F579 .....

[<sup>F581</sup>(1A) In this Chapter, “the requisite custodial period” means [<sup>F582</sup>(except where it has the meaning given by section 247A(8))] —

- (a) in relation to a person serving an extended sentence imposed under section 226A or 226B [<sup>F583</sup>or under section 254, 266 or 279 of the Sentencing Code], the requisite custodial period for the purposes of section 246A;
- (b) in relation to a person serving an extended sentence imposed under section 227 or 228, the requisite custodial period for the purposes of section 247;
- (c) in relation to a person serving a sentence imposed under section 236A [<sup>F584</sup>or under section 265 or 278 of the Sentencing Code], the requisite custodial period for the purposes of section 244A;

[<sup>F585</sup>(ca) in relation to a prisoner whose case has been referred to the Parole Board under section 244ZB, the requisite custodial period for the purposes of section 244ZC;]

- (d) in relation to any other fixed-term prisoner, the requisite custodial period for the purposes of section 243A [<sup>F586</sup>, 244 or 244ZA] (as appropriate).]

[<sup>F587</sup>(2) For the purposes of sections 243A(1A), 256AA(1), 256B(1A) and 264B(1), where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken to have been committed on the last of those days.]

#### Textual Amendments

- F576** S. 268 renumbered as s. 268(1) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 23(2)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F577** Words in s. 268(1) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 23(3)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F578** S. 268: words in definition of “fixed-term prisoner” inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, **Sch. 16 para. 227**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F579** Definitions in s. 268 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 35**; S.I. 2012/2906, art. 2(h)
- F580** Words in s. 268(1) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 23(4)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F581** S. 268(1A) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 14(2)**, 95(1) (with s. 14(7)); S.I. 2015/778, art. 3, [Sch. 1 para. 10](#)
- F582** Words in s. 268(1A) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 7(8)**, 10(4)
- F583** Words in s. 268(1A)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 238(a)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F584** Words in s. 268(1A)(c) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 238(b)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F585** S. 268(1A)(ca) inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 132(10)**, 208(4)(p)
- F586** Words in s. 268(1A)(d) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 130(7)**, 208(5)(m)

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**F587** S. 268(2) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 23\(5\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

#### Commencement Information

**I120** S. 268 wholly in force at 4.4.2005; s. 268 not in force at Royal Assent, see s. 336(3); s. 268 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2](#), [Sch.](#); s. 268 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## CHAPTER 7

### EFFECT OF LIFE SENTENCE

#### <sup>F588</sup>269 Determination of minimum term in relation to mandatory life sentence

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#### Textual Amendments

**F588** S. 269 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

#### <sup>F589</sup>270 Duty to give reasons

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#### Textual Amendments

**F589** S. 270 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### 271 Appeals

(1) In section 9 of the Criminal Appeal Act 1968 (c. 19) (appeal against sentence following conviction on indictment), after subsection (1) there is inserted—

“(1A) In subsection (1) of this section, the reference to a sentence fixed by law does not include a reference to an order made under subsection (2) or (4) of section 269 of the Criminal Justice Act 2003 in relation to a life sentence (as defined in section 277 of that Act) that is fixed by law.”.

(2) In section 8 of the Courts-Martial (Appeals) Act 1968 (c. 20) (right of appeal from court-martial to Courts-Martial Appeal Court) after subsection (1) there is inserted—

“(1ZA) In subsection (1) above, the reference to a sentence fixed by law does not include a reference to an order made under subsection (2) or (4) of section 269 of the Criminal Justice Act 2003 in relation to a life sentence (as defined in section 277 of that Act) that is fixed by law.”.

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## 272 Review of minimum term on a reference by Attorney General

(1) In section 36 of the Criminal Justice Act 1988 (c. 33) (reviews of sentencing) after subsection (3) there is inserted—

“(3A) Where a reference under this section relates to an order under subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence), the Court of Appeal shall not, in deciding what order under that section is appropriate for the case, make any allowance for the fact that the person to whom it relates is being sentenced for a second time.”.

(2) <sup>F590</sup> .....

(3) <sup>F590</sup> .....

### Textual Amendments

**F590** S. 272(2)(3) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, Sch. 16 para. 229, Sch. 17; S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

## 273 Life prisoners transferred to England and Wales

(1) The Secretary of State must refer the case of any transferred life prisoner to the High Court for the making of one or more relevant orders.

(2) In subsection (1) “transferred life prisoner” means a person -

(a) on whom a court in a country or territory outside the British Islands has imposed one or more sentences of imprisonment or detention for an indeterminate period, and

(b) who has been transferred to England and Wales after the commencement of this section in pursuance of—

(i) an order made by the Secretary of State under section 2 of the Colonial Prisoners Removal Act 1884 (c. 31), or

(ii) a warrant issued by the Secretary of State under the Repatriation of Prisoners Act 1984 (c. 47),

there to serve his sentence or sentences or the remainder of his sentence or sentences.

(3) In subsection (1) “a relevant order” means [<sup>F591</sup>a minimum term order or a whole life order under section 321 of the Sentencing Code].

(4) In section 34(1) of the Crime (Sentences) Act 1997 (c. 43) (meaning of “life prisoner” in Chapter 2 of Part 2 of that Act) at the end there is inserted “and includes a transferred life prisoner as defined by section 273 of the Criminal Justice Act 2003”.

[<sup>F592</sup>(5) The reference in subsection (2)(b) above to a person who has been transferred to England and Wales in pursuance of a warrant issued under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in England and Wales in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).]

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#### Textual Amendments

- F591** Words in s. 273(3) substituted for s. 273(3)(a)(b) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 239](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F592** S. 273(5) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 73](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 48(a)

### 274 Further provisions about references relating to transferred life prisoners

- (1) A reference to the High Court under section 273 is to be determined by a single judge of that court without an oral hearing.
- (2) In relation to a reference under that section, any reference to “the court” [<sup>F593</sup>in sections 321 to 323 of the Sentencing Code] is to be read as a reference to the High Court.
- (3) A person in respect of whom a reference has been made under section 273 may with the leave of the Court of Appeal appeal to the Court of Appeal against the decision of the High Court on the reference.
- (4) Section 1(1) of the Administration of Justice Act 1960 (c. 65) (appeal to [<sup>F594</sup>Supreme Court] from decision of High Court in a criminal cause or matter) and section 18(1)(a) of the Supreme Court Act 1981 (c. 54) (exclusion of appeal from High Court to Court of Appeal in a criminal cause or matter) do not apply in relation to a decision to which subsection (3) applies.
- (5) The jurisdiction conferred on the Court of Appeal by subsection (3) is to be exercised by the criminal division of that court.
- (6) Section 33(3) of the Criminal Appeal Act 1968 (c. 19) (limitation on appeal from criminal division of Court of Appeal) does not prevent an appeal to the [<sup>F594</sup>Supreme Court] under this section.
- (7) In relation to appeals to the Court of Appeal or the [<sup>F594</sup>Supreme Court] under this section, the Secretary of State may make an order containing provision corresponding to any provision in the Criminal Appeal Act 1968 (subject to any specified modifications).

#### Textual Amendments

- F593** Words in s. 274(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 240](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F594** Words in s. 274 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(5\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

### 275 Duty to release certain life prisoners

- (1) Section 28 of the Crime (Sentences) Act 1997 (c. 43) (duty to release certain life prisoners) is amended as follows.
- (2) For subsection (1A) there is substituted—
 

“(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

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such a prisoner’s sentence is a reference to the part of the sentence specified in the order.”

- (3) In subsection (1B)(a)—
- (a) for the words from the beginning to “applies” there is substituted “ this section does not apply to him ”, and
  - (b) for the words from “such an order” to “appropriate stage” there is substituted “ a minimum term order has been made in respect of each of those sentences ”.
- (4) After subsection (8) there is inserted—
- “(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).”.

## 276 Mandatory life sentences: transitional cases

Schedule 22 (which relates to the effect in transitional cases of mandatory life sentences) shall have effect.

## <sup>F595</sup>277 Interpretation of Chapter 7

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### Textual Amendments

**F595** S. 277 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

## CHAPTER 8

### OTHER PROVISIONS ABOUT SENTENCING

#### *Deferment of sentence*

## <sup>F596</sup>278 Deferment of sentence

.....

### Textual Amendments

**F596** S. 278 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

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*Power to include drug treatment and testing requirement  
in certain orders in respect of young offenders*

**279 Drug treatment and testing requirement in action plan order or supervision order**

F597 .....

**Textual Amendments**

**F597** S. 279 repealed (31.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 94, **Sch. 28 Pt. 1** (with Sch. 27 paras. 1 and 5); [S.I. 2009/3074](#), **art. 2(p)(xv)**

**Commencement Information**

**I121** S. 279 partly in force; s. 279 not in force at Royal Assent, see s. 336(3); s. 279 in force for certain purposes at 1.12.2004 by [S.I. 2004/3033](#), **art. 2(1)(2)** (subject to [art. 2\(3\)\(4\)](#))

*Alteration of penalties for offences*

PROSPECTIVE

**280 Alteration of penalties for specified summary offences**

- (1) The summary offences listed in Schedule 25 are no longer punishable with imprisonment.
- (2) Schedule 26 (which contains amendments increasing the maximum term of imprisonment for certain summary offences from 4 months or less to 51 weeks) shall have effect.
- (3) This section does not affect the penalty for any offence committed before the commencement of this section.

**281 Alteration of penalties for other summary offences**

- (1) Subsection (2) applies to any summary offence which—
  - (a) is an offence under a relevant enactment,
  - (b) is punishable with a maximum term of imprisonment of five months or less, and
  - (c) is not listed in Schedule 25 or Schedule 26.
- (2) The Secretary of State may by order amend any relevant enactment so as to—
  - (a) provide that any summary offence to which this subsection applies is no longer punishable with imprisonment, or
  - (b) increase to 51 weeks the maximum term of imprisonment to which a person is liable on conviction of the offence.
- (3) An order under subsection (2) may make such supplementary, incidental or consequential provision as the Secretary of State considers necessary or expedient, including provision amending any relevant enactment.



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- (4) Subsection (5) applies to any summary offence which—
  - (a) is an offence under a relevant enactment, and
  - (b) is punishable with a maximum term of imprisonment of six months.
- (5) The maximum term of imprisonment to which a person is liable on conviction of an offence to which this subsection applies is, by virtue of this subsection, 51 weeks (and the relevant enactment in question is to be read as if it had been amended accordingly).
- (6) Neither of the following—
  - (a) an order under subsection (2), or
  - (b) subsection (5),affects the penalty for any offence committed before the commencement of that order or subsection (as the case may be).
- (7) In this section and section 282 “relevant enactment” means any enactment contained in—
  - (a) an Act passed before or in the same Session as this Act, or
  - (b) any subordinate legislation made before the passing of this Act.
- (8) In subsection (7) “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

**Modifications etc. (not altering text)**

- C56** S. 281 applied (prosp.) by [Horse Race Betting and Olympic Lottery Act 2004 \(c. 25\)](#), **ss. 10(3)**, 40
- C57** S. 281(5) modified (16.12.2010) by [The National Assembly for Wales Referendum \(Assembly Act Provisions\) \(Referendum Question, Date of Referendum Etc.\) Order 2010 \(S.I. 2010/2837\)](#), arts. 1(2), **Sch. 4 para. 1(6)**

**Commencement Information**

- I122** S. 281(7)(8) in force at 14.7.2022 for specified purposes by [S.I. 2022/816](#), regs. 1(2), **2(a)**

**282 Increase in maximum term that may be imposed on summary conviction of offence triable either way**

- (1) In section 32 of the Magistrates' Courts Act 1980 (c. 43) (penalties on summary conviction for offences triable either way) in subsection (1) (offences listed in Schedule 1 to that Act) for “not exceeding 6 months” there is substituted “ not exceeding 12 months ”.
- (2) Subsection (3) applies to any offence triable either way which—
  - (a) is an offence under a relevant enactment,
  - (b) is punishable with imprisonment on summary conviction, and
  - (c) is not listed in Schedule 1 to the Magistrates' Courts Act 1980.
- (3) The <sup>F598</sup>... term of imprisonment to which a person is liable on summary conviction of an offence to which this subsection applies is by virtue of this subsection [<sup>F599</sup>a term not exceeding the general limit in a magistrates' court] (and the relevant enactment in question is to be read as if it had been amended accordingly).
- (4) Nothing in this section affects the penalty for any offence committed before the commencement of this section.

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#### Textual Amendments

- F598** Word in s. 282(3) omitted (14.7.2022) by virtue of [Judicial Review and Courts Act 2022 \(c. 35\)](#), **ss. 13(5)(a)**, 51(4); S.I. 2022/816, regs. 1(2), 3(c)
- F599** Words in s. 282(3) substituted (14.7.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), **ss. 13(5)(b)**, 51(4); S.I. 2022/816, regs. 1(2), 3(c)

#### Modifications etc. (not altering text)

- C58** S. 282 applied (prosp.) by [Horserace Betting and Olympic Lottery Act 2004 \(c. 25\)](#), **ss. 10(3)**, 60
- C59** S. 282(3) modified (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), **ss. 56(4)**, 66(2)(c)

#### Commencement Information

- I123** S. 282 in force at 2.5.2022 by S.I. 2022/500, **reg. 3(a)**

### 283 Enabling powers: power to alter maximum penalties

- (1) The Secretary of State may by order, in accordance with subsection (2) <sup>F600</sup>..., amend any relevant enactment which confers a power (however framed or worded) by subordinate legislation to make a person—
- (a) as regards a summary offence, liable on conviction to a term of imprisonment;
- <sup>F601</sup>(b) .....
- (2) An order made by virtue of paragraph (a) of subsection (1) may amend the relevant enactment in question so as to—
- (a) restrict the power so that a person may no longer be made liable on conviction of a summary offence to a term of imprisonment, or
- (b) increase to 51 weeks the maximum term of imprisonment to which a person may be made liable on conviction of a summary offence under the power.
- <sup>F602</sup>(3) .....
- (4) Schedule 27 (which amends the maximum penalties which may be imposed by virtue of certain enabling powers) shall have effect.
- (5) The power conferred by subsection (1) shall not apply to the enactments amended under Schedule 27.
- (6) An order under subsection (1) may make such supplementary, incidental or consequential provision as the Secretary of State considers necessary or expedient, including provision amending any relevant enactment.
- (7) None of the following—
- (a) an order under subsection (1), or
- (b) Schedule 27,
- affects the penalty for any offence committed before the commencement of that order or Schedule (as the case may be).
- (8) In subsection (1) “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (9) In this section “relevant enactment” means any enactment contained in an Act passed before or in the same Session as this Act.

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#### Textual Amendments

- F600** Words in s. 283(1) omitted (14.7.2022) by virtue of [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), [Sch. 2 para. 19\(3\)\(a\)\(i\)](#); S.I. 2022/816, regs. 1(2), 3(d)
- F601** S. 283(1)(b) omitted (14.7.2022) by virtue of [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), [Sch. 2 para. 19\(3\)\(a\)\(ii\)](#); S.I. 2022/816, regs. 1(2), 3(d)
- F602** S. 283(3) omitted (14.7.2022) by virtue of [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), [Sch. 2 para. 19\(3\)\(b\)](#); S.I. 2022/816, regs. 1(2), 3(d)

#### Commencement Information

- I124** S. 283(4)(7) in force at 2.5.2022 for specified purposes by S.I. 2022/500, [reg. 3\(b\)\(ii\)](#)

### 284 Increase in penalties for drug-related offences

- (1) Schedule 28 (increase in penalties for certain drug-related offences) shall have effect.
- (2) That Schedule does not affect the penalty for any offence committed before the commencement of that Schedule.

### 285 Increase in penalties for certain driving-related offences

- (1) In section 12A of the Theft Act 1968 (c. 60) (aggravated vehicle-taking), in subsection (4), for “five years” there is substituted “fourteen years”.
- (2) Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences) is amended in accordance with subsections (3) and (4).
- (3) In the entry relating to section 1 of the Road Traffic Act 1988 (c. 52) (causing death by dangerous driving), in column 4, for “10 years” there is substituted “14 years”.
- (4) In the entry relating to section 3A of that Act (causing death by careless driving when under influence of drink or drugs), in column 4, for “10 years” there is substituted “14 years”.
- (5) Part I of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10)) (prosecution and punishment of offences) is amended in accordance with subsections (6) and (7).
- (6) In the entry relating to Article 9 of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)) (causing death or grievous bodily injury by dangerous driving), in column 4, for “10 years” there is substituted “14 years”.
- (7) In the entry relating to Article 14 of that Order (causing death or grievous bodily injury by careless driving when under the influence of drink or drugs), in column 4, for “10 years” there is substituted “14 years”.
- (8) This section does not affect the penalty for any offence committed before the commencement of this section.

### 286 Increase in penalties for offences under section 174 of Road Traffic Act 1988

- (1) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences), in the entry relating to section 174 of the Road Traffic

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Act 1988 (c. 52) (false statements and withholding material information), for columns (3) and (4) there is substituted—

“(a) Summarily	(a) 6 months or the statutory maximum or both
(b) On indictment	(b) 2 years or a fine or both.”

- (2) Section 282(3) (increase in maximum term that may be imposed on summary conviction of offence triable either way) has effect in relation to the entry amended by subsection (1) as it has effect in relation to any other enactment contained in an Act passed before this Act.
- (3) This section does not apply in relation to any offence committed before the commencement of this section.

### *Firearms offences*

#### **287 Minimum sentence for certain firearms offences**

After section 51 of the Firearms Act 1968 (c. 27) there is inserted the following section—

##### **“51A Minimum sentence for certain offences under s. 5**

- (1) This section applies where—
- (a) an individual is convicted of—
    - (i) an offence under section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of this Act, or
    - (ii) an offence under section 5(1A)(a) of this Act, and
  - (b) the offence was committed after the commencement of this section and at a time when he was aged 16 or over.
- (2) The court shall impose an appropriate custodial sentence (or order for detention) for a term of at least the required minimum term (with or without a fine) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (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 section to have been committed on the last of those days.
- (4) In this section “appropriate custodial sentence (or order for detention)” means—
- (a) in relation to England and Wales—
    - (i) in the case of an offender who is aged 18 or over when convicted, a sentence of imprisonment, and
    - (ii) in the case of an offender who is aged under 18 at that time, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000;

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- (b) in relation to Scotland—
  - (i) in the case of an offender who is aged 21 or over when convicted, a sentence of imprisonment,
  - (ii) in the case of an offender who is aged under 21 at that time (not being an offender mentioned in sub-paragraph (iii)), a sentence of detention under section 207 of the Criminal Procedure (Scotland) Act 1995, and
  - (iii) in the case of an offender who is aged under 18 at that time and is subject to a supervision requirement, an order for detention under section 44, or sentence of detention under section 208, of that Act.

(5) In this section “the required minimum term” means—

- (a) in relation to England and Wales—
  - (i) in the case of an offender who was aged 18 or over when he committed the offence, five years, and
  - (ii) in the case of an offender who was under 18 at that time, three years, and
- (b) in relation to Scotland—
  - (i) in the case of an offender who was aged 21 or over when he committed the offence, five years, and
  - (ii) in the case of an offender who was aged under 21 at that time, three years.”

## 288 Certain firearms offences to be triable only on indictment

In Part 1 of Schedule 6 to the Firearms Act 1968 (c. 27) (prosecution and punishment of offences) for the entries relating to offences under section 5(1) (possessing or distributing prohibited weapons or ammunition) and section 5(1A) (possessing or distributing other prohibited weapons) there is substituted—

“Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c)	Possessing or distributing prohibited weapons or ammunition.	On indictment	10 years or a fine, or both.
Section 5(1)(b)	Possessing or distributing prohibited weapon designed for discharge of noxious liquid etc.	(a) Summary (b) On indictment	6 months or a fine of the statutory maximum, or both. 10 years or a fine or both.
Section 5(1A)(a)	Possessing or distributing firearm disguised as other object.	On indictment	10 years or a fine, or both.
Section 5(1A)(b), (c), (d), (e), (f) or (g)	Possessing or distributing other prohibited weapons.	(a) Summary (b) On indictment	6 months or a fine of the statutory maximum, or both.

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10 years or a fine,  
 or both.”

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**F603 289 Power to sentence young offender to detention in respect of certain firearms offences: England and Wales**

.....

**Textual Amendments**

**F603** S. 289 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

**290 Power to sentence young offender to detention in respect of certain firearms offences: Scotland**

- (1) The Criminal Procedure (Scotland) Act 1995 (c. 46) is amended as follows.
- (2) In section 49(3) (children’s hearing for purpose of obtaining advice as to treatment of child), at the end there is added “ except that where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968 it shall itself dispose of the case ”.
- (3) In section 208 (detention of children convicted on indictment), the existing provisions become subsection (1); and after that subsection there is added—
  - “(2) Subsection (1) does not apply where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968.”.

**291 Power by order to exclude application of minimum sentence to those under 18**

- (1) The Secretary of State may by order—
  - <sup>F604</sup>(a) .....
  - [<sup>F605</sup>(aa) amend section 29(3)(a) of the Violent Crime Reduction Act 2006 by substituting for the word “16” the word 18,]
  - <sup>F606</sup>(b) .....
  - (c) amend subsection (3) of section 49 of the Criminal Procedure (Scotland) Act 1995 by repealing the exception to that subsection,
  - (d) repeal section 208(2) of that Act, and
  - (e) make such other provision as he considers necessary or expedient in consequence of, or in connection with, the provision made by virtue of paragraphs (a) to (d).
- (2) The provision that may be made by virtue of subsection (1)(e) includes, in particular, provision amending or repealing any provision of an Act (whenever passed), including any provision of this Act.

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#### Textual Amendments

- F604** S. 291(1)(a) repealed (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 29](#) (with ss. 413(4), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F605** S. 291(1)(aa) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 9\(7\)](#); S.I. 2007/858, [art. 2\(g\)](#)
- F606** S. 291(1)(b) 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

#### Modifications etc. (not altering text)

- C60** S. 291 modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), s. 5(2)(3), [Sch. 2 para. 130](#); S.I. 2012/1236, reg. 2
- C61** S. 291(1) modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), ss. 1, 5(2)(3); S.I. 2012/1236, reg. 2

## 292 Sentencing for firearms offences in Northern Ireland

**F607** .....

#### Textual Amendments

- F607** S. 292 repealed (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702 \(N.I. 3\)\)](#), arts. 1, 82(2), [Sch. 8](#) (with [art. 81](#)); S.R. 2005/4, [art. 3](#) (with arts. 4-7)

## 293 Increase in penalty for offences relating to importation or exportation of certain firearms

- (1) The Customs and Excise Management Act 1979 (c. 2) is amended as follows.
- (2) In section 50 (penalty for improper importation of goods), for subsection (5A) there is substituted—

“(5A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
- (c) any such offence committed in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981, subsection (4)(b) above shall have effect as if for the words “7 years” there were substituted the words “10 years”.”



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- (3) In section 68 (offences in relation to exportation of prohibited or restricted goods) for subsection (4A) there is substituted—

“(4A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
  - (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
  - (c) any such offence committed in connection with the prohibition contained in section 21 of the Forgery and Counterfeiting Act 1981,
- subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”

- (4) In section 170 (penalty for fraudulent evasion of duty, etc), for subsection (4A) there is substituted—

“(4A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
- (c) any such offence committed in connection with the prohibitions contained in sections 20 and 21 of the Forgery and Counterfeiting Act 1981,

subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”

- (5) This section does not affect the penalty for any offence committed before the commencement of this section.

#### *Offenders transferred to mental hospital*

### **294 Duration of directions under Mental Health Act 1983 in relation to offenders**

- (1) Section 50 of the Mental Health Act 1983 (c. 20) (further provisions as to prisoners under sentence) is amended as follows.
- (2) In subsection (1), for “the expiration of that person’s sentence” there is substituted “ his release date ”.

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(3) For subsections (2) and (3) there is substituted—

“(2) A restriction direction in the case of a person serving a sentence of imprisonment shall cease to have effect, if it has not previously done so, on his release date.

(3) In this section, references to a person’s release date are to the day (if any) on which he would be entitled to be released (whether unconditionally or on licence) from any prison or other institution in which he might have been detained if the transfer direction had not been given; and in determining that day there shall be disregarded—

- (a) any powers that would be exercisable by the Parole Board if he were detained in such a prison or other institution, and
- (b) any practice of the Secretary of State in relation to the early release under discretionary powers of persons detained in such a prison or other institution.”.

## **295 Access to Parole Board for certain patients serving prison sentences**

In section 74 of the Mental Health Act 1983 (restricted patients subject to restriction directions) after subsection (5) there is inserted—

“(5A) Where the tribunal have made a recommendation under subsection (1)(b) above in the case of a patient who is subject to a restriction direction or a limitation direction—

- (a) the fact that the restriction direction or limitation direction remains in force does not prevent the making of any application or reference to the Parole Board by or in respect of him or the exercise by him of any power to require the Secretary of State to refer his case to the Parole Board, and
- (b) if the Parole Board make a direction or recommendation by virtue of which the patient would become entitled to be released (whether unconditionally or on licence) from any prison or other institution in which he might have been detained if he had not been removed to hospital, the restriction direction or limitation direction shall cease to have effect at the time when he would become entitled to be so released.”

## **296 Duration of directions under Mental Health (Northern Ireland) Order 1986 in relation to offenders**

(1) Article 56 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/ 595 (N.I. 4)) (further provisions as to prisoners under sentence) is amended as follows.

(2) In paragraph (1), for “the expiration of that person’s sentence” there is substituted “his release date”.

(3) For paragraphs (2) and (3) there is substituted—

“(2) A restriction direction in the case of a person serving a sentence of imprisonment shall cease to have effect, if it has not previously done so, on his release date.

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- (3) In this Article, references to a person’s release date are to the day (if any) on which he would be entitled to be released (whether unconditionally or on licence) from any prison or juvenile justice centre in which he might have been detained if the transfer direction had not been given; and in determining that day any powers that would be exercisable by the Sentence Review Commissioners or the Life Sentence Review Commissioners if he were detained in such a prison or juvenile justice centre shall be disregarded.”

## 297 Access to Sentence Review Commissioners and Life Sentence Review Commissioners for certain Northern Ireland patients

In Article 79 of the Mental Health (Northern Ireland) Order 1986 (restricted patients subject to restriction directions) after paragraph (5) there is inserted—

- “(5A) Where the tribunal have made a recommendation under paragraph (1)(b) in the case of a patient who is subject to a restriction direction—
- (a) the fact that the restriction direction remains in force does not prevent—
- (i) the making of any application or reference to the Life Sentence Review Commissioners by or in respect of him or the exercise by him of any power to require the Secretary of State to refer his case to those Commissioners, or
- (ii) the making of any application by him to the Sentence Review Commissioners, and
- (b) if—
- (i) the Life Sentence Review Commissioners give a direction by virtue of which the patient would become entitled to be released (whether unconditionally or on licence) from any prison or juvenile justice centre in which he might have been detained if the transfer direction had not been given, or
- (ii) the Sentence Review Commissioners grant a declaration by virtue of which he would become so entitled,
- the restriction direction shall cease to have effect at the time at which he would become so entitled.”.

PROSPECTIVE

### *Term of detention and training order*

#### <sup>F608</sup>298 Term of detention and training order

.....

#### **Textual Amendments**

**F608** S. 298 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

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*Disqualification from working with children*

**299 Disqualification from working with children**

Schedule 30 (which contains amendments of Part 2 of the Criminal Justice and Court Services Act 2000 (c. 43) relating to disqualification orders under that Part) shall have effect.

*Fine defaulters*

**300 Power to impose unpaid work requirement [<sup>F609</sup>curfew requirement or attendance centre requirement] on fine defaulter**

- (1) Subsection (2) applies in any case where, in respect of a person aged 16 or over, a magistrates' court—
  - (a) has power under Part 3 of the Magistrates' Courts Act 1980 (c. 43) to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)), or
  - (b) would, but for [<sup>F610</sup>section 227 of the Sentencing Code] (restrictions on custodial sentences for persons under 18), have power to issue such a warrant for such default.
- (2) The magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offender), order the person in default to comply with—
  - (a) an unpaid work requirement (as defined by [<sup>F611</sup>paragraph 1 of Schedule 9 to the Sentencing Code]), or
  - (b) a curfew requirement (as defined by [<sup>F612</sup>paragraph 9 of that Schedule]), <sup>F613</sup>...
  - <sup>F613</sup>(c) .....
- (3) In this Part “default order” means an order under subsection (2).
- (4) [<sup>F614</sup>Section 207(5) and (6) of the Sentencing Code and paragraph 10(3) of Schedule 9 to that Code] (which relate to electronic monitoring) have effect in relation to a default order as they have effect in relation to a community order.
- (5) Where a magistrates' court has power to make a default order, 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.
- <sup>F615</sup>(6) The following provisions of the Sentencing Code have effect in relation to default orders as they have effect in relation to community orders, but subject to the modifications contained in Schedule 31 to this Act—
  - sections 208(13), 210, 212 to 216, 394 and 395 (further provisions about community orders);
  - Schedule 9 (community orders and suspended sentence orders: requirements);
  - Schedule 10 (breach, revocation or amendment of community order);
  - Schedule 11 (transfer of community orders to Scotland or Northern Ireland).]
- (7) Where a default order has been made 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, and
  - (b) on payment of a part of the sum to any such person, the total number of hours or days to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (8) In calculating any reduction required by subsection (7)(b), any fraction of a day or hour is to be disregarded.

#### Textual Amendments

- F609** Words in s. 300 heading inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 40(2)**, 153 (with [Sch. 27 para. 13\(2\)](#)); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 20
- F610** Words in s. 300(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 241(2)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F611** Words in s. 300(2)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 241(3)(a)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F612** Words in s. 300(2)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 241(3)(b)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F613** S. 300(2)(c) and word omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 13 para. 6\(1\)\(b\)\(2\)](#); S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))
- F614** Words in s. 300(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 241(4)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F615** S. 300(6) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 241(5)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

- C62** S. 300 restricted (prosp.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 56-58**, 173

#### Commencement Information

- I125** S. 301 partly in force; s. 301 not in force at Royal Assent, see s. 336(3); s. 301(5) in force at 7.3.2005 by S.I. 2005/373, **art. 2**

### 301 Fine defaulters: driving disqualification

- (1) Subsection (2) applies in any case where a magistrates' court—
- (a) has power under Part 3 of the Magistrates' Courts Act 1980 (c. 43) to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)), or
  - (b) would, but for <sup>F616</sup>section 227 of the Sentencing Code] (restrictions on custodial sentences for persons under 18), have power to issue such a warrant for such default.
- (2) The magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the Magistrates' Courts Act 1980 (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) Where an order has been made under subsection (2) 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, and
  - (b) on payment of part of the sum to any such person, the total number of weeks or months to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (4) In calculating any reduction required by subsection (3)(b) any fraction of a week or month is to be disregarded.
- (5) The Secretary of State may by order amend subsection (2) by substituting, for the period there specified, such other period as may be specified in the order.
- (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—
- (a) any such licence held by him <sup>F617</sup>...; or
  - (b) in the case where he holds a Community licence (within the meaning of Part 3 of the Road Traffic Act 1988 (c. 52)), his Community licence <sup>F618</sup>....
- (7) In this section—
- “driving licence” means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988;
- <sup>F619</sup> ...

#### Textual Amendments

- F616** Words in s. 301(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 242](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F617** Words in s. 301(6)(a) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 3 para. 80\(2\)\(a\)](#), [Sch. 7\(4\)](#); [S.I. 2015/560](#), art. 3 (with arts. 4-9)
- F618** Words in s. 301(6)(b) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 3 para. 80\(2\)\(b\)](#), [Sch. 7\(4\)](#); [S.I. 2015/560](#), art. 3 (with arts. 4-9)
- F619** Words in s. 301(7) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 3 para. 80\(3\)](#), [Sch. 7\(4\)](#); [S.I. 2015/560](#), art. 3 (with arts. 4-9)

#### Commencement Information

- I126** S. 301 partly in force; s. 301 not in force at Royal Assent, see s. 336(3); s. 301(5) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#)

## CHAPTER 9

### SUPPLEMENTARY

#### 302 Execution of process between England and Wales and Scotland

Section 4 of the Summary Jurisdiction (Process) Act 1881 (c. 24) (execution of process of English and Welsh courts in Scotland) applies to any process issued by a magistrates' court under—

[<sup>F620</sup>section 256AC(1) or (3),  
section 256C(1) or (3),]  
<sup>F621</sup> ...

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F621 ...  
F621 ...  
F621 ...  
[<sup>F622</sup>paragraph 8(1) or 10(5) of Schedule 19A,]

as it applies to process issued under the Magistrates' Courts Act 1980 by a magistrates' court.

#### Textual Amendments

- F620** Words in s. 302 inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 24(2)** (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(u)
- F621** Words in s. 302 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
- F622** Words in s. 302 inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 24(4)** (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(u)

#### Modifications etc. (not altering text)

- C63** S. 302 modified in part (1.12.2020 immediately before the consolidation date (see [2020 c. 9](#), ss. 3, 5(2)(3) and [2020 c. 17](#), ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1, 5(2)(3)**; [S.I. 2012/1236](#), reg. 2

#### Commencement Information

- I127** S. 302 wholly in force at 4.4.2005; s. 302 not in force at Royal Assent, see s. 336(3); s. 302 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2, Sch.**; s. 302 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1), Sch. 1 para. 21** (subject to [art. 2\(2\), Sch. 2](#))

### 303 Sentencing: repeals

The following enactments (which are superseded by the provisions of this Part) shall cease to have effect—

- (a) Part 2 of the Criminal Justice Act 1991 (c. 53) (early release of prisoners),
- (b) in the Crime (Sentences) Act 1997 (c. 43)—
  - (i) section 29 (power of Secretary of State to release life prisoners to whom section 28 of that Act does not apply),
  - (ii) section 33 (transferred prisoners), and
  - (iii) sections 35 and 40 (fine defaulters),
- (c) sections 80 and 81 of the Crime and Disorder Act 1998 (c. 37) (sentencing guidelines), and
- (d) in the Sentencing Act—
  - (i) Chapter 3 of Part 4 (community orders available only where offender 16 or over),
  - (ii) section 85 (sexual or violent offences: extension of custodial term for licence purposes),
  - (iii) sections 87 and 88 (remand in custody),
  - (iv) section 109 (life sentence for second serious offence), and
  - (v) Chapter 5 of Part 5 (suspended sentences).



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**Commencement Information**

**I128** S. 303 partly in force; s. 303(b)(i)(ii) in force at 18.12.2003 see s. 336(2); s. 303(a)(c)(d) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 22 (subject to **art. 2(2)**, Sch. 2)

**304 Amendments relating to sentencing**

Schedule 32 (which contains amendments related to the provisions of this Part) shall have effect.

**Commencement Information**

**I129** S. 304 partly in force; s. 304 in force for certain purposes at 18.12.2003, see s. 336(2); s. 304 in force for certain purposes at 22.1.2004 by S.I. 2004/81, **art. 3**; s. 304 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 304 in force for certain purposes at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 23 (subject to **art. 2(2)**, Sch. 2)

**305 Interpretation of Part 12**

(1) In this Part, except where the contrary intention appears—

F623  
...

F624  
...

F623  
...

F623  
...

F623  
...

“associated”, in relation to offences, is to be read in accordance with [F625 section 400 of the Sentencing Code];

“attendance centre” has the meaning given by section 221(2);

F623  
...

“community order” has the meaning given by [F626 section 200 of the Sentencing Code];

F623  
...

F623  
...

“court” (without more), except in Chapter 7, does not include a service court[F627], but this does not apply where a contrary intention appears from any provision of the Armed Forces Act 2006;

“curfew requirement”, in relation to a community order, F628 ... or suspended sentence order, has the meaning given by [F629 paragraph 9(1) of Schedule 9 to the Sentencing Code];

“custodial sentence” has the meaning given by [F630 section 222 of the Sentencing Code];

F631  
.....

“default order” has the meaning given by section 300(3);

F623  
...

F623  
...

F623  
...

F623  
...

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F623  
...

F632  
.....

“licence” means a licence under Chapter 6;

F623  
...

F623  
...

[<sup>F633</sup>“the PCC(S)A 2000 ” means the Powers of Criminal Courts (Sentencing) Act 2000;]

F623  
...

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F623  
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F623  
...

“sentence of imprisonment” does not include a committal—

- (a) in default of payment of any sum of money,
- (b) for want of sufficient distress to satisfy any sum of money, or
- (c) for failure to do or abstain from doing anything required to be done or left undone ,

and references to sentencing an offender to imprisonment are to be read accordingly;

“the Sentencing Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);

[<sup>F634</sup>“service court” means—

- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Service Civilian Court;
- (d) the Court Martial Appeal Court; or
- (e) the Supreme Court on an appeal brought from the Court Martial Appeal Court;]

F624  
...

“suspended sentence” and “suspended sentence order” have the meaning given by [<sup>F635</sup>section 286 of the Sentencing Code];

F623  
...

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

[<sup>F636</sup>(1A) In this Part any reference to want of sufficient distress to satisfy a sum includes a reference to circumstances where—

- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person's goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).]

(2) For the purposes of any provision of this Part which requires the determination of the age of a person by the court or the Secretary of State, his age is to be taken to be that which it appears to the court or (as the case may be) the Secretary of State to be after considering any available evidence.

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(3) Any reference in this Part to an offence punishable with imprisonment is to be read without regard to any prohibition or restriction imposed by or under any Act on the imprisonment of young offenders.

F637(4) . . . . .

**Textual Amendments**

- F623 Words in s. 305(1) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F624 Words in s. 305(1) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 5 para. 6(3)** (with Sch. 7 para. 7); S.I. 2015/40, art. 2(v)
- F625 Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F626 Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F627 S. 305(1): words in definition of "court" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 231(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F628 Words in s. 305(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 37(c)**; S.I. 2012/2906, art. 2(h)
- F629 Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(5)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F630 Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(6)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F631 Words in s. 305(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 37(a)**; S.I. 2012/2906, art. 2(h)
- F632 Words in s. 305(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 37(b)**; S.I. 2012/2906, art. 2(h)
- F633 Words in s. 305(1) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(8)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F634 S. 305(1): definition of "service court" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) for definitions of "service court" and "service disciplinary proceedings" by Armed Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 231(b)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F635 Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(7)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F636 S. 305(1A) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 155** (with s. 89) (as amended (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 110(11), 151(1) (with **Sch. 15**); S.I. 2012/2906, **art. 2(d)**); S.I. 2014/768, **art. 2(1)(b)**
- F637 S. 305(4) 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

**Modifications etc. (not altering text)**

- C64 S. 305 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1, 5(2)(3)**; S.I. 2012/1236, reg. 2

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### Commencement Information

**I130** S. 305 wholly in force at 4.4.2005; s. 305 not in force at Royal Assent, see s. 336(3); s. 305(1)-(3) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 305 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 24** (subject to **art. 2(2), Sch. 2**)

## PART 13

### MISCELLANEOUS

#### *Detention of suspected terrorists*

### 306 Limit on period of detention without charge of suspected terrorists

(1) Schedule 8 to the Terrorism Act 2000 (c. 11) (detention) is amended as follows.

(2) <sup>F638</sup> .....

(3) <sup>F638</sup> .....

(4) After that sub-paragraph there is inserted—

“(3A) Where the period specified in a warrant of further detention—

(a) ends at the end of the period of seven days beginning with the relevant time, or

(b) by virtue of a previous extension (or further extension) under this sub-paragraph, ends after the end of that period,

the specified period may, on an application under this paragraph, be extended or further extended to a period ending not later than the end of the period of fourteen days beginning with the relevant time.

(3B) In this paragraph “the relevant time”, in relation to a person, means—

(a) the time of his arrest under section 41, or

(b) if he was being detained under Schedule 7 when he was arrested under section 41, the time when his examination under that Schedule began.”

### Textual Amendments

**F638** S. 306(2)(3) repealed (25.7.2006) by **Terrorism Act 2006 (c. 11), ss. 37(5), 39, Sch. 3; S.I. 2006/1936, art. 2**

#### *Enforcement of legislation on endangered species*

### 307 Enforcement of regulations implementing [<sup>F639</sup>EU] legislation on endangered species

(1) In this section—

“the 1972 Act” means the European Communities Act 1972 (c. 68);

“relevant [<sup>F639</sup>EU] instrument” means—

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- (a) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating the trade therein, and
  - (b) Commission Regulation 1808/01/EC on the implementation of the Council Regulation mentioned in paragraph (a).
- (2) Regulations made under section 2(2) of the 1972 Act for the purpose of implementing any relevant [F639]EU instrument may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on conviction on indictment with imprisonment for a term not exceeding five years.
- (3) In relation to Scotland and Northern Ireland, regulations made under section 2(2) of the 1972 Act for the purpose of implementing any relevant [F639]EU instrument may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.
- <sup>F640</sup>(4) .....
- (5) Until the coming into force of paragraph 3 of Schedule 27 (which amends paragraph 1 of Schedule 2 to the 1972 Act), subsection (3) has effect—
- (a) with the omission of the words “in relation to Scotland and Northern Ireland”, and
  - (b) as if, in relation to England and Wales, the definition of “relevant [F639]EU instrument” also included Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive 97/62/EC.
- (6) Any reference in this section to [F639]an[F639]EU instrument is to be read—
- (a) as a reference to that instrument as amended from time to time, and
  - (b) where any provision of that instrument has been repealed, as including a reference to any instrument that re-enacts the repealed provision (with or without amendment).

**Textual Amendments**

**F639** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3)4(2)6(4)(5))

**F640** S. 307(4) repealed (S.) (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), [sch. 2 para. 17](#); [S.S.I. 2017/345](#), art. 3, sch.

**Commencement Information**

**I131** S. 307 wholly in force at 21.7.2005; s. 307(1)-(3)(5)(6) in force at Royal Assent, see s. 336(1); s. 307(4) in force at 21.7.2005 by [S.I. 2005/1817](#), [art. 3](#)

*Miscellaneous provisions about criminal proceedings*

**308 Non-appearance of defendant: plea of guilty**

In section 12 of the Magistrates' Courts Act 1980 (c. 43) (non-appearance of accused: plea of guilty) subsection (1)(a)(i) (which excludes offences punishable with imprisonment for term exceeding 3 months) is omitted.

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#### Commencement Information

**I132** S. 308 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 25 (subject to **art. 2(2)**, Sch. 2)

### 309 Preparatory hearings for serious offences not involving fraud

In section 29 of the Criminal Procedure and Investigations Act 1996 (c. 25) (power to order preparatory hearings) in subsection (1) (preparatory hearing may be held in complex or lengthy trial) after “complexity” there is inserted “ a case of such seriousness ”.

#### Commencement Information

**I133** S. 309 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 25 (subject to **art. 2(2)**, Sch. 2)

### 310 Preparatory hearings to deal with severance and joinder of charges

- (1) In section 7(1) of the Criminal Justice Act 1987 (c. 38) (which sets out the purposes of preparatory hearings in fraud cases) after paragraph (d) there is inserted “or
  - (e) considering questions as to the severance or joinder of charges.”
- (2) In section 9(3) of that Act (determinations as to the admissibility of evidence etc) after paragraph (c) there is inserted “and
  - (d) any question as to the severance or joinder of charges.”
- (3) In section 9(11) of that Act (appeals against orders or rulings under section 9(3)(b) or (c)) for “or (c)” there is substituted “ (c) or (d) ”.
- (4) In section 29(2) of the Criminal Procedure and Investigations Act 1996 (purposes of preparatory hearings in non-fraud cases) after paragraph (d) there is inserted—
  - “(e) considering questions as to the severance or joinder of charges.”.
- (5) In section 31(3) of that Act (rulings as to the admissibility of evidence etc) after paragraph (b) there is inserted—
  - “(c) any question as to the severance or joinder of charges.”

#### Commencement Information

**I134** S. 310 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 25 (subject to **art. 2(2)**, Sch. 2)

### 311 Reporting restrictions for preparatory hearings

- (1) The Criminal Justice Act 1987 is amended as follows.
- (2) In paragraphs (a) and (b) of section 11(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.

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(3) In section 11A (offences in connection with reporting) after subsection (3) there is inserted—

“(3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.”

(4) In section 17(3) (extent) after “sections 2 and 3;” there is inserted “ sections 11 and 11A; ”.

(5) The Criminal Procedure and Investigations Act 1996 (c. 25) is amended as follows.

(6) In paragraphs (a) and (b) of section 37(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.

(7) In section 38 (offences in connection with reporting) after subsection (3) there is inserted—

“(3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.”

(8) In paragraphs (a) and (b) of section 41(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.

(9) In section 79(3) (extent) after “Parts III” there is inserted “ (other than sections 37 and 38) ”.

(10) In Schedule 4 (modifications for Northern Ireland) paragraph 16 is omitted.

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**Commencement Information**

**I135** S. 311 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 25](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

**312 Awards of costs**

(1) The Prosecution of Offences Act 1985 (c. 23) is amended as follows.

(2) In section 16(4A) (defence costs on an appeal under section 9(11) of Criminal Justice Act 1987 (c. 38) may be met out of central funds) after “1987” there is inserted “ or section 35(1) of the Criminal Procedure and Investigations Act 1996 ”.

(3) In section 18(2) (award of costs against accused in case of dismissal of appeal under section 9(11) of the Criminal Justice Act 1987 etc) after paragraph (c) there is inserted “or

(d) an appeal or application for leave to appeal under section 35(1) of the Criminal Procedure and Investigations Act 1996.”

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**Commencement Information**

**I136** S. 312 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 25](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))



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### **313 Extension of investigations by Criminal Cases Review Commission in England and Wales**

- (1) Section 23A of the Criminal Appeal Act 1968 (c. 19) (power to order investigations by Criminal Cases Review Commission) is amended as follows.
- (2) In subsection (1) after “conviction” there is inserted “ or an application for leave to appeal against conviction, ”.
- (3) In paragraph (a) of that subsection—
  - (a) at the beginning there is inserted “ in the case of an appeal, ”, and
  - (b) for “case”, in both places where it occurs, there is substituted “ appeal ”.
- (4) After paragraph (a) of that subsection there is inserted—
  - “(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;”.
- (5) After that subsection there is inserted—

“(1A) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 31 of this Act.”
- (6) After subsection (4) there is inserted—

“(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

#### **Commencement Information**

**1137** S. 313 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, **art. 3(1)(2)** (subject to **art. 3(3)(4)**)

### **314 Extension of investigations by Criminal Cases Review Commission in Northern Ireland**

- (1) Section 25A of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (power to order investigations by Criminal Cases Review Commission) is amended as follows.
- (2) In subsection (1) after “conviction” there is inserted “ or an application for leave to appeal against conviction, ”.
- (3) In paragraph (a) of that subsection—
  - (a) at the beginning there is inserted “ in the case of an appeal, ”, and
  - (b) for “case”, in both places where it occurs, there is substituted “ appeal ”.
- (4) After paragraph (a) of that subsection there is inserted—
  - “(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;”.
- (5) After that subsection there is inserted—

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“(1A) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 45 below.”

(6) After subsection (4) there is inserted—

“(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

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**Commencement Information**

**I138** S. 314 wholly in force at 1.9.2004, see s. 336(3) and [S.I. 2004/1629](#), [art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)](#) (4))

### **315 Appeals following reference by Criminal Cases Review Commission**

(1) Section 14 of the Criminal Appeal Act 1995 (c. 35) (further provision about references by Criminal Cases Review Commission) is amended as follows.

(2) After subsection (4) there is inserted—

“(4A) Subject to subsection (4B), where a reference under section 9 or 10 is treated as an appeal against any conviction, verdict, finding or sentence, the appeal may not be on any ground which is not related to any reason given by the Commission for making the reference.

(4B) The Court of Appeal may give leave for an appeal mentioned in subsection (4A) to be on a ground relating to the conviction, verdict, finding or sentence which is not related to any reason given by the Commission for making the reference.”

(3) In subsection (5) for “any of sections 9 to” there is substituted “ section 11 or ”.

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**Commencement Information**

**I139** S. 315 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 25](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### **316 Power to substitute conviction of alternative offence on appeal in England and Wales**

(1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.

(2) In section 3 (power to substitute conviction of alternative offence) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.

(3) After section 3 there is inserted—

#### **“3A Power to substitute conviction of alternative offence after guilty plea**

(1) This section applies on an appeal against conviction where—

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- (a) an appellant has been convicted of an offence to which he pleaded guilty,
  - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
  - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of the other offence.
- (2) The Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of the other offence and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.”

#### Commencement Information

**I140** S. 316 wholly in force at 1.9.2004, see s. 336(3) and [S.I. 2004/1629](#), [art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)\(4\)](#))

### 317 Power to substitute conviction of alternative offence on appeal in Northern Ireland

- (1) The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) is amended as follows.
- (2) In section 3 (power to substitute conviction of alternative offence) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.
- (3) After section 3 there is inserted—

#### “3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies where—
  - (a) an appellant has been convicted of an offence to which he pleaded guilty,
  - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
  - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the plea so substituted.”

#### Commencement Information

**I141** S. 317 wholly in force at 1.9.2004, see s. 336(3) and [S.I. 2004/1629](#), [art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)\(4\)](#))

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### **318 Substitution of conviction on different charge on appeal from court-martial**

- (1) The Courts-Martial (Appeals) Act 1968 (c. 20) is amended as follows.
- (2) In section 14 (substitution of conviction on different charge) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.
- (3) After section 14 there is inserted—

#### **“14A Substitution of conviction on different charge after guilty plea**

- (1) This section applies where—
  - (a) an appellant has been convicted of an offence to which he pleaded guilty,
  - (b) if he had not so pleaded, he could lawfully have pleaded, or been found, guilty of some other offence, and
  - (c) it appears to the Appeal Court on an appeal against conviction that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Appeal Court may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of the other offence, and may pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as they think proper, being a sentence warranted by the relevant Service Act for that other offence, but not a sentence of greater severity.”

#### **Commencement Information**

**I142** S. 318 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, **art. 3(1)(2)** (subject to **art. 3(3)(4)**)

### **319 Appeals against sentences in England and Wales**

- (1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.
- (2) In section 10 (appeal against sentence in certain cases) for subsection (3) there is substituted—
  - “(3) An offender dealt with for an offence before the Crown Court in a proceeding to which subsection (2) of this section applies may appeal to the Court of Appeal against any sentence passed on him for the offence by the Crown Court.”
- (3) In section 11 (supplementary provisions as to appeal against sentence) after subsection (6) there is inserted—
  - “(7) For the purposes of this section, any two or more sentences are to be treated as passed in the same proceeding if—
    - (a) they are passed on the same day; or
    - (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence.”

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**Commencement Information**

**I143** S. 319 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 25 (subject to **art. 2(2)**, Sch. 2)

*Outraging public decency*

**320 Offence of outraging public decency triable either way**

(1) After paragraph 1 of Schedule 1 to the Magistrates' Courts Act 1980 (c. 43) (offences triable either way by virtue of section 17) there is inserted—

An offence at common law of outraging public decency.”

(2) This section does not apply in relation to any offence committed before the commencement of this section.

*Jury service*

**321 Jury service**

Schedule 33 (jury service) shall have effect.

**Commencement Information**

**I144** S. 321 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, **art. 2(1)(2)** (subject to **art. 2(3)-(6)**)

*Individual support orders*

<sup>F641</sup>**322 Individual support orders**

.....

**Textual Amendments**

**F641** Ss. 322, 323 repealed (23.3.2015) by **Anti-social Behaviour, Crime and Policing Act 2014** (c. 12), s. 185(1), **Sch. 11 para. 50** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(xii)

<sup>F641</sup>**323 Individual support orders: consequential amendments**

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**Textual Amendments**

**F641** Ss. 322, 323 repealed (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(xii)

*Parenting orders and referral orders*

**F642** **324 Parenting orders and referral orders**

.....

**Textual Amendments**

**F642** S. 324 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

*Assessing etc. risks posed by sexual or violent offenders*

**325 Arrangements for assessing etc risks posed by certain offenders**

(1) In this section—

“relevant sexual or violent offender” [<sup>F643</sup>and “relevant terrorist offender” have the meanings] given by section 327;

“responsible authority”, in relation to any area, means the chief officer of police, the local probation board for that area [<sup>F644</sup>or (if there is no local probation board for that area) a relevant provider of probation services] and the Minister of the Crown exercising functions in relation to prisons, acting jointly.

(2) The responsible authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by—

(a) relevant sexual and violent offenders,

[<sup>F645</sup>(aa) relevant terrorist offenders,]

(b) other persons who, by reason of offences committed by them (wherever committed), are considered by the responsible authority to be persons who may cause serious harm to the public [<sup>F646</sup>, and

(c) other persons who have committed offences (wherever committed) and are considered by the responsible authority to be persons who may be at risk of involvement in terrorism-related activity.]

(3) In establishing those arrangements, the responsible authority must act in co-operation with the persons specified in subsection (6); and it is the duty of those persons to co-operate in the establishment by the responsible authority of those arrangements, to the extent that such co-operation is compatible with the exercise by those persons of their [<sup>F647</sup>relevant functions].

[<sup>F648</sup>(4) A person to whom subsection (4A) applies may, for the purpose described in subsection (2), disclose information to another person to whom subsection (4A) applies.

(4A) This subsection applies to—

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- (a) the responsible authority,
  - (b) a person specified in subsection (6), and
  - (c) a person who the responsible authority considers may contribute to the achievement of the purpose described in subsection (2).
- (4B) A disclosure under subsection (4) does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (4C) But subsection (4) does not authorise a disclosure of information that—
- (a) would contravene the data protection legislation (but in determining whether it would do so, the power in that subsection is to be taken into account), or
  - (b) would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (4D) Subsection (4E) applies if a person who may disclose or receive information by virtue of subsection (4) would not otherwise be a competent authority for the purposes of Part 3 of the Data Protection Act 2018 (law enforcement processing) in relation to the processing by that person of personal data by virtue of that subsection.
- (4E) The person is to be treated as a competent authority for the purposes of that Part in relation to the processing by that person of personal data by virtue of subsection (4).
- (4F) But subsection (4E) does not apply to an intelligence service within the meaning of Part 4 of the Data Protection Act 2018 (see section 82(2) of that Act).
- (4G) Subsections (4) to (4F) do not affect any power to disclose information apart from that conferred by subsection (4).]
- (5) The responsible authority for each area (“the relevant area”) and the persons specified in subsection (6) must together draw up a memorandum setting out the ways in which they are to co-operate.
- (6) The persons referred to in subsections (3) [<sup>F649</sup>, (4A)(b)] and (5) are—
- (a) every youth offending team established for an area any part of which falls within the relevant area,
  - (b) the Ministers of the Crown exercising functions in relation to social security, child support, war pensions, employment and training,
  - [<sup>F650</sup>(ba) [<sup>F651</sup>NHS England],]
  - (c) every [<sup>F652</sup>local authority acting in the exercise of its relevant functions] any part of whose area falls within the relevant area,
  - (d) every local housing authority <sup>F653</sup>... any part of whose area falls within the relevant area,
  - [<sup>F654</sup>(da) every local authority (in its capacity as a person exercising functions for the purposes of the health service) any part of whose area falls within the relevant area,]
  - (e) every [<sup>F655</sup>private registered provider of social housing or] registered social landlord which provides or manages residential accommodation in the relevant area in which persons falling within subsection (2)(a) or (b) reside or may reside,
  - (f) every Health Authority <sup>F656</sup>... any part of whose area falls within the relevant area,



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- (g) every [<sup>F657</sup>integrated care board or]<sup>F658</sup> ... Local Health Board any part of whose area falls within the relevant area,
  - (h) every NHS trust any part of whose area falls within the relevant area, <sup>F659</sup> ...
  - (i) every person who is designated by the Secretary of State by order for the purposes of this paragraph as a provider of electronic monitoring services [<sup>F660</sup>, and
  - (j) the persons listed in section 48(1A)(a) to (e) of the UK Borders Act 2007 and any person acting pursuant to arrangements relating to the discharge of a function within section 48(1A) of that Act (persons exercising functions as the UK Border Agency)].
- (7) The Secretary of State may by order amend subsection (6) by adding or removing any person or description of person.
- (8) The Secretary of State may issue guidance to responsible authorities on the discharge of the functions conferred by this section and [<sup>F661</sup>sections 326 and 327A].
- <sup>F662</sup>(8A) Responsible authorities must have regard to any guidance issued under subsection (8) in discharging those functions.]
- (9) In this section—
- [<sup>F663</sup>“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);]
  - [<sup>F664</sup>“education functions” has the meaning given by section 579(1) of the Education Act 1996;]
  - [<sup>F663</sup>“involvement in terrorism-related activity” has the same meaning as in the Terrorism Prevention and Investigation Measures Act 2011 (see section 4 of that Act);]
  - “[<sup>F665</sup>local authority]” has the same meaning as in the Education Act 1996 (c. 56);
  - “local housing authority” has the same meaning as in the Housing Act 1985 (c. 68);
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
  - “NHS trust” has the same meaning as in the [<sup>F666</sup>National Health Service Act 2006];
  - [<sup>F663</sup>“personal data” has the same meaning as in the Data Protection Act 2018 (see section 3(2) of that Act);]
  - “prison” has the same meaning as in the Prison Act 1952 (c. 52);
  - [<sup>F663</sup>“processing” has the same meaning as in the Data Protection Act 2018 (see section 3(4) of that Act);]
  - “registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996 (c. 52);
  - [<sup>F667</sup>“relevant functions means—
    - (a) in the case of a local authority, the education functions and the social services functions of that authority;
    - (b) in the case of any other person specified in subsection (6), the functions of that person under any other enactment;]  - [<sup>F668</sup>“a relevant provider of probation services” in relation to an area means a provider of probation services identified as such for the purposes of this

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section by arrangements under section 3 of the Offender Management Act 2007. ]

<sup>F669</sup> ...

[<sup>F670</sup> “ social services functions ” has the meaning given [<sup>F671</sup> —

(a) in relation to England,] by section 1A of the Local Authority Social Services Act 1970.

(b) [<sup>F672</sup> in relation to Wales, has the meaning given by section 143 of the Social Services and Well-being (Wales) Act 2014].]

### Textual Amendments

- F643** Words in s. 325(1) substituted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 189(2), 208(4)(x)
- F644** Words in s. 325(1) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, Sch. 1 para. 19(16)(a)
- F645** S. 325(2)(aa) substituted (28.4.2022) for word by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 189(3)(a), 208(4)(x)
- F646** S. 325(2)(c) and word inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 189(3)(b), 208(4)(x)
- F647** Words in s. 325(3) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), Sch. 2 para. 53(2)
- F648** S. 325(4)-(4G) substituted for s. 325(4) (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 189(4), 208(4)(x)
- F649** Words in s. 325(6) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 189(5), 208(4)(x)
- F650** S. 325(6)(ba) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 124(a); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F651** Words in s. 325 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F652** Words in s. 325(6)(c) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), Sch. 2 para. 53(3)(a)
- F653** Words in s. 325(6)(d) repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1)(2), Sch. 2 para. 53(3)(b), Sch. 3 Pt. 2
- F654** S. 325(6)(da) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 124(b); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F655** Words in s. 325(6)(e) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 5, Sch. 2 para. 126 (subject to Sch. 3)
- F656** Words in s. 325(6)(f) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 124(c); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F657** Words in s. 325(6)(g) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 4 para. 67; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F658** Words in s. 325(6)(g) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 124(d)(ii); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F659** Word in s. 325(6)(h) repealed (20.7.2011) by Co-operation in Public Protection Arrangements (UK Border Agency) Order 2011 (S.I. 2011/1733), arts. 1, 2(a)
- F660** S. 325(6)(j) and preceding word inserted (20.7.2011) by Co-operation in Public Protection Arrangements (UK Border Agency) Order 2011 (S.I. 2011/1733), arts. 1, 2(b)
- F661** Words in s. 325(8) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, Sch. 26 para. 74(2); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(a)

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- F662** S. 325(8A inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 74(3)**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F663** Words in s. 325(9) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(6)**, 208(4)(x)
- F664** S. 325(9): definition of "education functions" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 53(4)(b)**
- F665** Words in s. 325(9) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 53(4)(a)**
- F666** In s. 325(9) in definition of "NHS Trust" words substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 5, 8, **Sch. 1 para. 254** (with Sch. 3 Pt. 1)
- F667** S. 325(9): definition of "relevant functions" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 53(4)(b)**
- F668** S. 325(9): definition of "a relevant provider of probation services" inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 19(16)(b)**
- F669** S. 325(9): definition of "social services authority" repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1)(2), Sch. 2 para. 53(4)(c), **Sch. 3 Pt. 2**
- F670** S. 325(9): definition of "social services functions" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 53(4)(b)**
- F671** Words in s. 325(9) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **212(a)**
- F672** Words in s. 325(9) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **212(b)**

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#### Commencement Information

- I145** S. 325 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, **art. 2(1)(2)** (subject to art. 2(3)-(6))

## 326 Review of arrangements

- (1) The responsible authority for each area must keep the arrangements established by it under section 325 under review with a view to monitoring their effectiveness and making any changes to them that appear necessary or expedient.
- (2) The responsible authority for any area must exercise their functions under subsection (1) in consultation with persons appointed by the Secretary of State as lay advisers in relation to that authority.
- (3) The Secretary of State must appoint two lay advisers under subsection (2) in relation to each responsible authority.
- (4) The responsible authority must pay to or in respect of the persons so appointed such allowances as the Secretary of State may determine.
- (5) As soon as practicable after the end of each period of 12 months beginning with 1st April, the responsible authority for each area must—
  - (a) prepare a report on the discharge by it during that period of the functions conferred by section 325 [<sup>F673</sup>, this section and section 327A], and
  - (b) publish the report in that area.

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- (6) The report must include—
- (a) details of the arrangements established by the responsible authority, and
  - (b) information of such descriptions as the Secretary of State has notified to the responsible authority that he wishes to be included in the report.

#### Textual Amendments

**F673** Words in s. 326(5)(a) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 75](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 48(a)

#### Commencement Information

**I146** S. 326 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

### 327 Section 325: interpretation

- (1) For the purposes of section 325, a person is a relevant sexual or violent offender if he falls within one or more of [<sup>F674</sup>subsections (2) to (4)].
- (2) A person falls within this subsection if he is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42).
- (3) A person falls within this subsection if—
  - (a) he [<sup>F675</sup>has been] convicted by a court in England or Wales of murder or an offence specified in [<sup>F676</sup>Part 1 or 2 of] Schedule 15 [<sup>F677</sup>or in subsection (4A) below], and
  - (b) one of the following sentences [<sup>F678</sup>was] imposed on him in respect of the conviction—
    - (i) a sentence of imprisonment for [<sup>F679</sup>that is not for a term of less than 12 months],
    - (ii) a sentence of detention in a young offender institution for a term of 12 months or more,
    - (iii) a sentence of detention during Her Majesty’s pleasure,
    - (iv) a sentence of detention for public protection under section 226,
    - (v) a sentence of detention for a period of 12 months or more under section 91 of [<sup>F680</sup>the Powers of Criminal Courts (Sentencing) Act 2000 or under section 250 [<sup>F681</sup>or 252A] of the Sentencing Code] (offenders under 18 convicted of certain serious offences),
    - [<sup>F682</sup>(va) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 or under section 272 or 275 of the Sentencing Code,]
    - (vi) a sentence of detention under section [<sup>F683</sup>226B or] 228 [<sup>F684</sup>or under section 254 of the Sentencing Code],
    - (vii) a detention and training order for a term of 12 months or more, or
    - (viii) a hospital or guardianship order within the meaning of the Mental Health Act 1983 (c. 20).
- (4) A person falls within this subsection if—
  - (a) he is found not guilty by a court in England and Wales of murder or an offence specified in [<sup>F685</sup>Part 1 or 2 of] Schedule 15 [<sup>F686</sup>or in subsection (4A) below]

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by reason of insanity or to be under a disability and to have done the act charged against him in respect of such an offence, and

- (b) one of the following orders is made in respect of the act charged against him as the offence—
- (i) an order that he be admitted to hospital, or
  - (ii) a guardianship order within the meaning of the Mental Health Act 1983.

[<sup>F687</sup>(4A) The offences specified in this subsection are—

- (a) an offence under section 1 of the Child Abduction Act 1984 (abduction of child by parent);
- (b) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (trafficking people for exploitation), where the offence is committed against a child;
- (c) an offence under section 4(3) of the Misuse of Drugs Act 1971 where the offence is committed by—
  - (i) supplying or offering to supply a Class A drug to a child,
  - (ii) being concerned in the supplying of such a drug to a child, or
  - (iii) being concerned in the making to a child of an offer to supply such a drug;
- (d) an offence of aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this subsection;
- (e) an offence of conspiring to commit an offence so specified;
- (f) an offence of attempting to commit an offence so specified.]

[<sup>F688</sup>(4B) For the purposes of section 325, a person is a relevant terrorist offender if the person falls within one or both of subsections (4C) and (4D).

(4C) A person falls within this subsection if the person is subject to the notification requirements of Part 4 of the Counter-Terrorism Act 2008.

(4D) A person falls within this subsection if the person has been convicted of and sentenced for a relevant terrorist offence, or otherwise dealt within in relation to such an offence, as described in—

- (a) paragraph (a) or (b) of section 45(1) of the Counter-Terrorism Act 2008,
- (b) paragraph (a) or (b) of section 45(2) of that Act,
- (c) paragraph (a) or (b) of section 45(3) of that Act, or
- (d) paragraph (a) or (b) of paragraph 5(1) of Schedule 6 to that Act.

(4E) For the purposes of subsection (4D)—

- (a) any reference in the Counter-Terrorism Act 2008 to an offence to which Part 4 of that Act applies is to be read as if it were a reference to a relevant terrorist offence, and
- (b) any reference in that Act to a hospital order is to be read as if it included a guardianship order within the meaning of the Mental Health Act 1983 or the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).

(4F) In subsections (4D) and (4E) “relevant terrorist offence” means—

- (a) an offence specified in Part 1 or 2 of Schedule 19ZA (terrorism offences punishable with imprisonment for life or for more than two years),

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- (b) a service offence as respects which the corresponding civil offence is so specified, or
- (c) an offence which was determined to have a terrorist connection (see subsection (4G));

and in paragraph (b) “service offence” and “corresponding civil offence” have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).

(4G) For the purposes of subsection (4F)(c), an offence was determined to have a terrorist connection if it was—

- (a) determined to have a terrorist connection under—
  - (i) section 69 of the Sentencing Code (including as applied by section 238(6) of the Armed Forces Act 2006),
  - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in England and Wales before the Sentencing Code applied, or an offender sentenced in Northern Ireland but now capable of posing a risk in an area in England and Wales), or
  - (iii) section 32 of that Act (in the case of a person sentenced for a service offence before the Sentencing Code applied), or
- (b) proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland but now capable of posing a risk in an area in England and Wales).]

<sup>F689</sup>(5) .....

(6) In this section<sup>F690</sup>—

"child" means a person under 18;]

“court” does not include a service court, as defined by section 305(1).

#### Textual Amendments

- F674** Words in s. 327(1) substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 83(2)**, 115(3)(j)
- F675** Words in s. 327(3)(a) substituted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 189(8)(a)(i)**, 208(4)(x)
- F676** Words in s. 327(3)(a) inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 189(8)(a)(ii)**, 208(4)(x)
- F677** Words in s. 327(3)(a) inserted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 83(3)**, 115(3)(j)
- F678** Word in s. 327(3)(b) substituted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 189(8)(b)(i)**, 208(4)(x)
- F679** Words in s. 327(3)(b)(i) substituted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 189(8)(b)(ii)**, 208(4)(x)
- F680** Words in s. 327(3)(b)(v) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 244(a)** (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F681** Words in s. 327(3)(b)(v) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), **Sch. 13 para. 21(9)**
- F682** S. 327(3)(b)(va) inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 189(8)(b)(iii)**, 208(4)(x)
- F683** Words in s. 327(3)(b)(vi) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 21 para. 29**; [S.I. 2012/2906](#), art. 2(s)
- F684** Words in s. 327(3)(b)(vi) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 244(b)** (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2



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- F685** Words in s. 327(4)(a) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 189(9), 208(4)(x)
- F686** Words in s. 327(4)(a) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), ss. 83(4), 115(3)(j)
- F687** S. 327(4A) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), ss. 83(5), 115(3)(j)
- F688** S. 327(4B)-(4G) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 189(10), 208(4)(x)
- F689** S. 327(5) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), ss. 83(6), 115(3)(j)
- F690** Words in s. 327(6) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), ss. 83(7), 115(3)(j)

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**Commencement Information**

- I147** S. 327 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

[<sup>F691</sup>327A] **Disclosure of information about convictions etc. of child sex offenders to members of the public**

- (1) The responsible authority for each area must, in the course of discharging its functions under arrangements established by it under section 325, consider whether to disclose information in its possession about the relevant previous convictions of any child sex offender managed by it to any particular member of the public.
- (2) In the case mentioned in subsection (3) there is a presumption that the responsible authority should disclose information in its possession about the relevant previous convictions of the offender to the particular member of the public.
- (3) The case is where the responsible authority for the area has reasonable cause to believe that—
  - (a) a child sex offender managed by it poses a risk in that or any other area of causing serious harm to any particular child or children or to children of any particular description, and
  - (b) the disclosure of information about the relevant previous convictions of the offender to the particular member of the public is necessary for the purpose of protecting the particular child or children, or the children of that description, from serious harm caused by the offender.
- (4) The presumption under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.
- (5) Where the responsible authority makes a disclosure under this section—
  - (a) it may disclose such information about the relevant previous convictions of the offender as it considers appropriate to disclose to the member of the public concerned, and
  - (b) it may impose conditions for preventing the member of the public concerned from disclosing the information to any other person.
- (6) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.
- (7) The responsible authority for each area must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.
- (8) The record must include the following information—
  - (a) the reasons for making a decision to disclose information under this section,



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- (b) the reasons for making a decision not to disclose information under this section, and
  - (c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.
- (9) Nothing in this section requires or authorises the making of a disclosure which contravenes [<sup>F692</sup>the data protection legislation].
- (10) This section is not to be taken as affecting any power of any person to disclose any information about a child sex offender.

#### Textual Amendments

**F691** Ss. 327A, 327B inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 140, 153**; [S.I. 2008/1586](#), **art. 2(1)**, [Sch. 1 para. 43](#)

**F692** Words in s. 327A(9) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 96** (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), [reg. 2\(1\)\(g\)](#)

### 327B Section 327A: interpretation

- (1) This section applies for the purposes of section 327A.
  - (2) “Child” means a person under 18.
  - (3) “Child sex offence” means an offence listed in Schedule 34A, whenever committed.
  - (4) “Child sex offender” means any person who—
    - (a) has been convicted of such an offence,
    - (b) has been found not guilty of such an offence by reason of insanity,
    - (c) has been found to be under a disability and to have done the act charged against the person in respect of such an offence, or
    - (d) has been cautioned in respect of such an offence.
- [ “The data protection legislation” has the same meaning as in the Data Protection Act <sup>F693</sup>(4A) 2018 (see section 3 of that Act).]
- (5) In relation to a responsible authority, references to information about the relevant previous convictions of a child sex offender are references to information about—
    - (a) convictions, findings and cautions mentioned in subsection (4)(a) to (d) which relate to the offender, and
    - (b) anything under the law of any country or territory outside England and Wales which in the opinion of the responsible authority corresponds to any conviction, finding or caution within paragraph (a) (however described).
  - (6) References to serious harm caused by a child sex offender are references to serious physical or psychological harm caused by the offender committing any offence listed in any paragraph of Schedule 34A other than paragraphs 1 to 6 (offences under provisions repealed by Sexual Offences Act 2003).
  - (7) A responsible authority for any area manages a child sex offender if the offender is a person who poses risks in that area which fall to be managed by the authority under the arrangements established by it under section 325.

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- (8) For the purposes of this section the provisions of section 4 of, and paragraph 3 of Schedule 2 to, the Rehabilitation of Offenders Act 1974 (protection for spent convictions and cautions) are to be disregarded.
- (9) In this section “cautioned”, in relation to any person and any offence, means—
- (a) cautioned after the person has admitted the offence, <sup>F694</sup> ...  
F694 .....
- (10) Section 135(1), (2)(a) and (c) and (3) of the Sexual Offences Act 2003 (mentally disordered offenders) apply for the purposes of this section as they apply for the purposes of Part 2 of that Act.]

**Textual Amendments**

- F691** Ss. 327A, 327B inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 140, 153**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 43
- F693** S. 327B(4A) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 97** (with **ss. 117, 209, 210**); S.I. 2018/625, reg. 2(1)(g)
- F694** S. 327B(9)(b) and word omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 26** (with s. 135(4)); S.I. 2013/453, art. 4(f)

*Criminal record certificates*

**328 Criminal record certificates: amendments of Part 5 of Police Act 1997**

Schedule 35 (which contains amendments of Part 5 of the Police Act 1997 (c. 50)) shall have effect.

**Extent Information**

- E1** S. 328: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 167(a), 178(1)(a)**

**Commencement Information**

- I148** S. 328 partly in force; s. 328 not in force at Royal Assent, see s. 336(3); s. 328 in force for certain purposes at 29.1.2004 by S.I. 2004/81, **art. 4(2)(m)** and s. 328 in force for E.W. for certain further purposes at 6.4.2006 by S.I. 2006/751, **art. 2** and in force for N.I. at 3.12.2007 by S.I. 2007/3340, **art. 2(a)**

*Civil proceedings brought by offenders*

**329 Civil proceedings for trespass to the person brought by offender**

- (1) This section applies where—
- (a) a person (“the claimant”) claims that another person (“the defendant”) did an act amounting to trespass to the claimant’s person, and
  - (b) the claimant has been convicted in the United Kingdom of an imprisonable offence committed on the same occasion as that on which the act is alleged to have been done.

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- (2) Civil proceedings relating to the claim may be brought only with the permission of the court.
- (3) The court may give permission for the proceedings to be brought only if there is evidence that either—
- (a) the condition in subsection (5) is not met, or
  - (b) in all the circumstances, the defendant’s act was grossly disproportionate.
- (4) If the court gives permission and the proceedings are brought, it is a defence for the defendant to prove both—
- (a) that the condition in subsection (5) is met, and
  - (b) that, in all the circumstances, his act was not grossly disproportionate.
- (5) The condition referred to in subsection (3)(a) and (4)(a) is that the defendant did the act only because—
- (a) he believed that the claimant—
    - (i) was about to commit an offence,
    - (ii) was in the course of committing an offence, or
    - (iii) had committed an offence immediately beforehand; and
  - (b) he believed that the act was necessary to—
    - (i) defend himself or another person,
    - (ii) protect or recover property,
    - (iii) prevent the commission or continuation of an offence, or
    - (iv) apprehend, or secure the conviction, of the claimant after he had committed an offence;
 or was necessary to assist in achieving any of those things.
- (6) Subsection (4) is without prejudice to any other defence.
- [<sup>F695</sup>(7) Where—
- (a) a person is convicted of an offence under section 42 of the Armed Forces Act 2006 (criminal conduct), and
  - (b) the corresponding offence under the law of England and Wales (within the meaning given by that section) is an imprisonable offence,
- he is to be treated for the purposes of this section as having been convicted in the United Kingdom of that corresponding offence; and in paragraph (a) the reference to conviction includes anything that under section 376(1) and (2) of that Act is to be treated as a conviction.]
- (8) In this section—
- (a) the reference to trespass to the person is a reference to—
    - (i) assault,
    - (ii) battery, or
    - (iii) false imprisonment;
  - (b) references to a defendant’s belief are to his honest belief, whether or not the belief was also reasonable;
  - (c) “court” means the High Court or [<sup>F696</sup>the county court] and
  - (d) “imprisonable offence” means an offence which, in the case of a person aged 18 or over, is punishable by imprisonment.

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### Textual Amendments

**F695** S. 329(7) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 232](#) (with savings (31.10.2009) in [S.I. 2009/1059](#), arts. 1(3), 205, [Sch. 1 para. 53\(9\)\(10\)](#)); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

**F696** Words in s. 329(8)(c) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

### Modifications etc. (not altering text)

**C65** S. 329(7) modified (31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 53\(11\)](#)

## PART 14

### GENERAL

#### 330 Orders and rules

(1) This section applies to—

- (a) any power conferred by this Act on the Secretary of State to make an order or rules;
- (b) the power conferred by section 168<sup>F697</sup> . . . [<sup>F698</sup>or the Lord Chief Justice] to make an order.
- [<sup>F699</sup>(c) the powers conferred on the Lord Chancellor by sections [<sup>F700</sup>29(2E),] 174(4) and 269(6) to make an order.]

(2) The power is exercisable by statutory instrument.

[<sup>F701</sup>(2A) Where a statutory instrument is made by the Lord Chief Justice in the exercise of the power referred to in subsection (1)(b), the Statutory Instruments Act 1946 applies to the instrument as if it contained an order made by a Minister of the Crown.]

(3) The power—

- (a) may be exercised so as to make different provision for different purposes or different areas, and
- (b) may be exercised either for all the purposes to which the power extends, or for those purposes subject to specified exceptions, or only for specified purposes.

(4) The power includes power to make—

- (a) any supplementary, incidental or consequential provision, and
- (b) any transitory, transitional or saving provision,

which the Minister making the instrument considers necessary or expedient.

(5) A statutory instrument containing—

- (a) an order under any of the following provisions—
  - [<sup>F702</sup>section 22(3C),]
  - section 25(5),
  - section 103,

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F703  
 . . .  
 F704  
 ...  
 F705  
 ...  
 F704  
 ...  
 [F706 section F707 ...  
 section F708 ... ]  
 F704  
 ...  
 section 246(5),  
 [F709 section 256AZB,]  
 [F710 section 256AB(4),]  
 [F711 section 258(2C),]  
 section 260,  
 section 267,  
 F704  
 ...  
 section 281(2),  
 section 283(1),  
 section 291,  
 section 301(5),  
 section 325(7), and  
 [F710 paragraph 6 of Schedule 19A,]  
 paragraph 5 of Schedule 31,

- [F712(aa) an order under section 23A(4) which makes provision—
- (i) increasing the fraction in section 23A(3)(a), or
  - (ii) increasing the figure in section 23A(3)(b) by more than is necessary to reflect changes in the value of money,]
- F713(b) ..... [F714 or]
- (c) an order making any provision by virtue of section 333(2)(b) which adds to, replaces or omits any part of the text of an Act, F715 ...
- F715(d) .....
- may only be made if a draft of the statutory instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Any other statutory instrument made in the exercise of a power to which this section applies is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subsection (6) does not apply to a statutory instrument containing only an order made under one or more of the following provisions—
- F716  
 ...
  - F716  
 ...
  - section 253(5),
  - section 325(6)(i), and
  - section 336.

#### Textual Amendments

**F697** Words in s. 330(1)(b) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 146, 148, **Sch. 18 Pt. 2**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 30(b)

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- F698** Words in s. 330(1)(b) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 359(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(cc)
- F699** S. 330(1)(c) added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 177, 182, (with s. 180, Sch. 22); S.I. 2010/816, **art. 2**, Sch. paras. 14(b), 20(b) (with art. 7(4))
- F700** Word in s. 330(1)(c) inserted (7.11.2023) by Judicial Review and Courts Act 2022 (c. 35), s. 51(4), **Sch. 2 para. 4(4)**; S.I. 2023/1194, reg. 2(e)
- F701** S. 330(2A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 359(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(cc)
- F702** Words in s. 330(5)(a) inserted (16.11.2009 for specified purposes and otherwise prosp.) by Police and Justice Act 2006 (c. 48), **ss. 17(5)(a)**, 53; S.I. 2009/2774, **art. 2**
- F703** Words in s. 330(5)(a) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 95, **Sch. 28 Pt. 1** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xv)(u) (xxxi)**
- F704** Words in s. 330(5)(a) 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
- F705** Words in s. 330(5)(a) omitted (1.6.2014) by virtue of Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 4 para. 13**; S.I. 2014/1287, art. 2(d)
- F706** Words in s. 330(5)(a) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 76**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F707** Words in s. 330(5)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 30(a)**; S.I. 2012/2906, art. 2(s)
- F708** Word in s. 330(5)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 30(b)**; S.I. 2012/2906, art. 2(s)
- F709** Words in s. 330(5)(a) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 137(3)**, 208(1); S.I. 2022/520, reg. 5(p)
- F710** Words in s. 330(5)(a) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 25** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F711** Words in s. 330(5)(a) inserted (E.W.) (1.6.2015) by Serious Crime Act 2015 (c. 9), **ss. 10(4)**, 88(1); S.I. 2015/820, reg. 3(g)
- F712** S. 330(5)(aa) inserted (16.11.2009) by Police and Justice Act 2006 (c. 48), **ss. 17(5)(b)**, 53; S.I. 2009/2774, **art. 3**
- F713** S. 330(5)(b) repealed (1.5.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 9 para. 148(5), **Sch. 10 Pt. 10**
- F714** Word in s. 330(5)(b) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(12)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F715** S. 330(5)(d) and preceding word omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(12)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F716** Words in s. 330(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

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**Modifications etc. (not altering text)**

- C66** S. 330 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1, 5(2)(3)**; S.I. 2012/1236, reg. 2

**[<sup>F717</sup>330A] Orders: Northern Ireland**

- (1) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 <sup>F718</sup>.

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- (2) The Department of Justice shall not make any order—
- (a) making any provision by virtue of section 333(2)(b) which adds to, replaces or omits any part of the text of an Act, or
  - (b) under section 336(3) bringing section 43 into force,
- unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (3) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 <sup>F719</sup> applies for the purposes of subsection (2) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.
- (4) Any other order made by the Department of Justice under section 333, or an order made by the Department of Justice under section 47(8) or 97(2), is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 <sup>F720</sup>).
- (5) Any power of the Department of Justice to make an order under this Act—
- (a) may be exercised so as to make different provision for different purposes or different areas, and
  - (b) may be exercised either for all the purposes to which the power extends, or for those purposes subject to specified exceptions, or only for specified purposes.
- (6) The power includes power to make—
- (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,
- which the Department of Justice considers necessary or expedient.]

#### Textual Amendments

**F717** S. 330A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, [Sch. 14 para. 78\(4\)](#) (with arts. 28-31); [S.I. 2010/977](#), art. 1(2)

**F718** [S.I. 1979/1573 \(N.I. 12\)](#).

**F719** Section 41(3) was substituted by [S.I. 1999/663](#).

**F720** Section 41(6) was amended by [S.I. 1999/663](#).

### 331 Further minor and consequential amendments

Schedule 36 (further minor and consequential amendments) shall have effect.

#### Commencement Information

**I149** S. 331 partly in force; s. 331 not in force at Royal Assent, see s. 336(3); s. 331 in force for certain purposes at 5.4.2004 by [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#)); s. 331 in force for certain purposes at 1.9.2004 by [S.I. 2004/1629](#), [art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)\(4\)](#)); s. 331 in force for certain purposes at 15.12.2004 and for certain further purposes at 1.1.2005 by [S.I. 2004/3033](#), [arts. 3, 4](#); s. 331 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 26](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); s. 331 in force for N.I. for certain purposes at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#)); s. 331 in force for certain purposes at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); s. 331 in force for certain purposes at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#); s. 331 in force for



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certain purposes at 1.10.2007 by S.I. 2007/2874, **art. 2(1)(2)(b)**; s. 331 in force for certain purposes at 18.6.2012 by S.I. 2012/1320, **art. 3(b)**

### 332 Repeals

Schedule 37 (repeals) shall have effect.

#### Commencement Information

- I150** S. 332 partly in force; s. 332 in force for certain purposes at Royal Assent and for certain further purposes at 18.12.2003, see s. 336(1)(2); s. 332 in force for certain purposes at 20.1.2004, 29.1.2004 and 27.2.2004 by S.I. 2004/81, **arts. 2, 4, 5**; s. 332 in force for certain purposes at 5.4.2004 by S.I. 2004/829, **art. 2(1)(2)** (subject to **art. 2(3)-(6)**); s. 332 in force for certain purposes at 15.12.2004 by S.I. 2004/3033, **art. 3**; s. 332 in force for certain purposes at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 27** (subject to **art. 2(2), Sch. 2**); s. 332 in force for N.I. for certain purposes at 15.7.2005 by S.I. 2005/1817, **art. 2(1)(2)** (subject to **art. 2(3)**); s. 332 in force for E.W. for certain purposes at 6.4.2006 by S.I. 2006/751, **art. 2**; s. 332 in force for N.I. at 3.12.2007 by S.I. 2007/3340, **art. 2(a)**; s. 332 in force for certain purposes at 18.6.2012 by S.I. 2012/1320, **arts. 3(c), 4(1)(b)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, **art. 4(2)** and S.I. 2013/1103, **art. 4**)
- I151** S. 332 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, **art. 2(1)(b)(2)(3), Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I152** S. 332 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(b)(2)(3)** (with **arts. 3, 4**)
- I153** S. 332 in force at 14.7.2022 for specified purposes by S.I. 2022/816, **regs. 1(2), 2(b)**

### 333 Supplementary and consequential provision, etc.

- (1) The Secretary of State may by order make—
- any supplementary, incidental or consequential provision, and
  - any transitory, transitional or saving provision,
- which he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act.

[<sup>F721</sup>(1A) In the application of this section to Northern Ireland, any reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.]

- (2) An order under subsection (1) may, in particular—
- provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with such modifications as are specified in the order, and
  - amend or repeal—
    - any Act passed before, or in the same Session as, this Act, and
    - subordinate legislation made before the passing of this Act.
- (3) Nothing in this section limits the power by virtue of section 330(4)(b) [<sup>F722</sup>or 330A(6)(b)] to include transitional or saving provision in an order under section 336.
- (4) The amendments that may be made under subsection (2)(b) are in addition to those made by or under any other provision of this Act.

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- (5) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (6) Schedule 38 (which contains transitory and transitional provisions and savings) shall have effect.

#### Textual Amendments

**F721** S. 333(1A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, **Sch. 14 para. 78(5)(a)** (with arts. 28-31); S.I. 2010/977, art. 1(2)

**F722** Words in s. 333(3) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 12, **Sch. 14 para. 78(5)(b)** (with arts. 28-31); S.I. 2010/977, art. 1(2)

#### Commencement Information

**I154** S. 333 partly in force; s. 333(1)-(5) in force and s. 333(6) in force for certain purposes at Royal Assent, see s. 336(1); s. 333(6) in force for certain purposes at 27.2.2004 by [S.I. 2004/81](#), **art. 5**; s. 333(6) in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 28** (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 334 Provision for Northern Ireland

- (1) An Order in Council under section 85 of the Northern Ireland Act 1998 (c. 47) (provision dealing with certain reserved matters) which contains a statement that it is made only for purposes corresponding to those of any provisions of this Act specified in subsection (2)—
- shall not be subject to subsections (3) to (9) of that section (affirmative resolution of both Houses of Parliament), but
  - shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The provisions are—
- in Part 1, sections 1, 3(3), 4, 7 to 10 and 12 and paragraphs 1, 2, 5 to 10 and 20 of Schedule 1, and
  - Parts 8, 9 and 11.
- (3) In relation to any time when section 1 of the Northern Ireland Act 2000 (c. 1) is in force (suspension of devolved government in Northern Ireland)—
- the reference in subsection (1) above to section 85 of the Northern Ireland Act 1998 shall be read as a reference to paragraph 1 of the Schedule to the Northern Ireland Act 2000 (legislation by Order in Council during suspension), and
  - the reference in subsection (1)(a) above to subsections (3) to (9) of that section shall be read as a reference to paragraph 2 of that Schedule.
- (4) The reference in section 41(2) of the Justice (Northern Ireland) Act 2002 (c. 26) (transfer of certain functions to Director of Public Prosecutions for Northern Ireland) to any function of the Attorney General for Northern Ireland of consenting to the institution of criminal proceedings includes any such function which is conferred by an amendment made by this Act.

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- (5) Any reference to any provision of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) in the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)) is to be read as a reference to that provision as amended by this Act.

### 335 Expenses

There shall be paid out of money provided by Parliament—

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

### 336 Commencement

- (1) The following provisions of this Act come into force on the passing of this Act—  
section 168(1) and (2),  
section 183(8),  
section 307(1) to (3), (5) and (6),  
section 330,  
section 333(1) to (5),  
sections 334 and 335,  
this section and sections 337, 338 and 339, and  
the repeal in Part 9 of Schedule 37 of section 81(2) and (3) of the Countryside and Rights of Way Act 2000 (c. 37) (and section 332 so far as relating to that repeal), and  
paragraphs 1 and 6 of Schedule 38 (and section 333(6) so far as relating to those paragraphs).
- (2) The following provisions of this Act come into force at the end of the period of four weeks beginning with the day on which this Act is passed—  
Chapter 7 of Part 12 (and Schedules 21 and 22);  
section 303(b)(i) and (ii);  
paragraphs 42, 43(3), 66, 83(1) to (3), 84 and 109(2), (3)(b), (4) and (5) of Schedule 32 (and section 304 so far as relating to those provisions);  
Part 8 of Schedule 37 (and section 332 so far as relating to that Part of that Schedule).
- (3) The remaining provisions of this Act come into force in accordance with provision made by the Secretary of State by order.
- (4) Different provision may be made for different purposes and different areas.
- [<sup>F723</sup>(5) For the purposes of the law of Northern Ireland, the power in subsection (3) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State).]

#### Subordinate Legislation Made

- P1** S. 336(3) power partly exercised: 26.1.2004 appointed for specified provisions by {S.I. 2003/3282}, art. 2, Sch.; different dates appointed for specified provisions by {S.I. 2004/81}, arts. 2-4; different dates appointed for specified provisions by {S.I. 2004/829}, arts. 2-4; different dates appointed for

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specified provisions by {S.I. 2004/1629}, arts. 2, 3; 1.8.2004 appointed for specified provisions by {S.I. 2004/1867}, art. 2; different dates appointed for specified provisions by {S.I. 2004/3033}, arts. 2-4; 7.3.2005 appointed for specified provisions by {S.I. 2005/373}, art. 2; different dates appointed for specified provisions by {S.I. 2005/950}, arts. 2-4, Sch. 1 (subject to Sch. 2) (as explained by S.I. 2005/2122, art. 2; and as amended by: S.I. 2007/391, art. 2 (revoked by S.I. 2009/3111, art. 2); 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); S.I. 2009/616, art. 2 (revoked by S.I. 2009/3111, art. 2); S.I. 2009/3111, art. 2); 9.5.2005 appointed for specified provisions by {S.I. 2005/1267}, art. 2, Sch.; different dates appointed for specified provisions by {S.I. 2005/1817}, arts. 2, 3; 1.12.2005 appointed for specified provisions by {S.I. 2005/3055}, art. 2; 6.4.2006 appointed for specified provisions by {S.I. 2006/751}, art. 2; 24.7.2006 appointed for specified provisions by {S.I. 2006/1835}, art. 2 (subject to art. 3); 1.1.2007 appointed for specified provisions by {S.I. 2006/3217}, art. 2; 8.1.2007 appointed for specified provisions by {S.I. 2006/3422}, art. 2; 25.7.2007 appointed for specified provisions by {S.I. 2007/1999}, art. 2; 1.10.2007 appointed for specified provisions by {S.I. 2007/2874}, art. 2; 3.12.2007 appointed for specified provisions by {S.I. 2007/3340}, art. 2; 7.12.2007 appointed for specified provisions by {S.I. 2007/3451}, art. 2 (subject to art. 3); 1.4.2008 appointed for a specified provision by {S.I. 2008/694}, art. 2; 9.6.2008 appointed for specified provisions by {S.I. 2008/1424}, art. 2; 16.11.2011 appointed for specified provision by {S.I. 2009/2775}, art. 2; 1.11.2009 appointed for the specified provisions by {S.I. 2009/2879}, art. 2, 3; 26.4.2010 and 1.5.2010 appointed for specified provisions by {S.I. 2010/1183}, arts. 2, 3 (with art. 4); 1.1.2011 appointed for specified provision by {S.I. 2010/3005}, art. 2

#### Textual Amendments

**F723** S. 336(5) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, Sch. 14 para. 78(6) (with arts. 28-31); S.I. 2010/977, art. 1(2)

### 337 Extent

- (1) Subject to the following provisions of this section and to section 338, this Act extends to England and Wales only.
- (2) The following provisions extend also to Scotland and Northern Ireland—
  - sections 71 and 72;
  - sections 82 and 83;
  - F724  
...
  - section 188 and Schedule 11;
  - F724  
...
  - section 293;
  - section 306
  - section 307;
  - section 311;
  - this Part, except sections 331, 332 and 334(5);
  - paragraphs 19, 70 and 71 of Schedule 3;
  - F724  
...
  - paragraphs 3, 6, 7 and 8 of Schedule 27;
  - paragraphs 6 to 8 of Schedule 31.
- (3) The following provisions extend also to Scotland—
  - section 50(14);

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- section 286;
  - sections 287, 288, and 291;
  - section 302;
  - paragraph 2 of Schedule 23;
  - paragraphs 1, 2 and 5 of Schedule 27;
  - paragraph 7 of Schedule 38.
- (4) Section 290 extends to Scotland only.
- (5) The following provisions extend also to Northern Ireland—
- Part 5;
  - Part 7;
  - sections 75 to 81;
  - sections 84 to 93;
  - sections 95 to 97;
  - section 315;
  - [<sup>F725</sup>section 328;]
  - Schedule 5.
  - [<sup>F726</sup>Schedule 35.]
- (6) The following provisions extend to Northern Ireland only—
- <sup>F727</sup> . . .
- sections 296 and 297;
  - section 314;
  - section 317;
  - section 334(5).
- (7) The amendment or repeal of any enactment by any provision of—
- (a) Part 1,
  - (b) section 285,
  - (c) Part 2 of Schedule 3 (except as mentioned in subsection (8)),
  - (d) Schedule 27,
  - (e) Schedule 28,
  - (f) Part 1 of Schedule 32,
  - (g) Parts 1 to 4 and 6 of Schedule 36, and
  - (h) Parts 1 to 4, 6 to 8, 10 and 12 of Schedule 37 (except as mentioned in subsection (9)),
- extends to the part or parts of the United Kingdom to which the enactment extends.
- (8) Paragraphs 29, 30, 31, 39, 41, 50, 53 and 63 of Schedule 3 do not extend to Northern Ireland.
- (9) The repeals in Part 4 of Schedule 37 relating to—
- (a) the Bankers' Books Evidence Act 1879 (c. 11),
  - (b) the Explosive Substances Act 1883 (c. 3),
  - (c) the Backing of Warrants (Republic of Ireland) Act 1965 (c. 45),
  - (d) the Customs and Excise Management Act 1979 (c. 2), and
  - (e) the Contempt of Court Act 1981 (c. 49),
- do not extend to Northern Ireland.

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- (10) The provisions mentioned in subsection (11), so far as relating to proceedings before a particular service court, have the same extent as the Act under which the court is constituted.
- (11) Those provisions are—  
 section 113 and Schedule 6;  
 section 135 and Schedule 7.
- (12) Nothing in subsection (1) affects —  
 (a) the extent of Chapter 7 of Part 12 so far as relating to sentences passed [<sup>F728</sup>in respect of service offences within the meaning of the Armed Forces Act 2006], or  
 (b) the extent of section 299 and Schedule 30 so far as relating to the making of orders by, or orders made by, [<sup>F729</sup>the Court Martial or the Court Martial Appeal Court].
- [<sup>F730</sup>(12A) Nothing in subsection (1) affects the extent of section 94; and section 384 of the Armed Forces Act 2006 applies in relation to section 94 of this Act as it applies in relation to that Act.]
- (13) Any provision of this Act which—  
 (a) relates to any enactment contained in—  
 (i) <sup>F731</sup> .....  
 (ii) <sup>F731</sup> .....  
 (iii) <sup>F731</sup> .....  
 (iv) the [<sup>F732</sup>Court Martial Appeals Act 1968](c. 20), [<sup>F733</sup> or]  
 (v) <sup>F731</sup> .....  
 (vi) section 113 of the Police and Criminal Evidence Act 1984 (c. 60),  
 (vii) <sup>F731</sup> .....  
 (viii) <sup>F731</sup> .....  
 (b) <sup>F734</sup> .....  
 has the same extent as the enactment to which it relates.

#### Textual Amendments

- F724** Words in s. 337(2) 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
- F725** Words in s. 337(5) inserted (7.4.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 167(a), 178(1)(a)**
- F726** Words in s. 337(5) inserted (7.4.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 167(b), 178(1)(a)**
- F727** Words in s. 337(6) repealed (1.2.2005) by The Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3)), arts. 1, 82(2), **Sch. 8** (with art. 81); S.R. 2005/4, **art. 3** (with arts. 4-7)
- F728** Words in s. 337(12)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 233(2)(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F729** Words in s. 337(12)(b) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 233(2)(b)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

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- F730** S. 337(12A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 233\(3\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F731** S. 337(13)(a)(i)-(iii)(v)(vii)(viii) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 233\(4\)\(a\)\(i\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F732** Words in s. 337(13)(a)(iv) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 233\(4\)\(a\)\(ii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F733** Word in s. 337(13)(a)(iv) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 233\(4\)\(a\)\(ii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F734** S. 337(13)(b) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009); S.I. 2009/1167, [art. 4](#); S.I. 2009/1167, [art. 4](#) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 233\(4\)\(b\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**Modifications etc. (not altering text)**

- C67** S. 337(12) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 53\(12\)](#)

### 338 Channel Islands and Isle of Man

- (1) Subject to subsections (2) and (3), Her Majesty may by Order in Council extend any provision of this Act, with such modifications as appear to Her Majesty in Council to be appropriate, to any of the Channel Islands or the Isle of Man.
- (2) Subsection (1) does not authorise the extension to any place of a provision of this Act so far as the provision amends an enactment that does not itself extend there and is not itself capable of being extended there in the exercise of a power conferred on Her Majesty in Council.
- (3) Subsection (1) does not apply in relation to any provision that extends to the Channel Islands or the Isle of Man by virtue of any of subsections (10) to (13) of section 337.
- (4) Subsection (4) of section 330 applies to the power to make an Order in Council under subsection (1) as it applies to any power of the Secretary of State to make an order under this Act, but as if references in that subsection to the Minister making the instrument were references to Her Majesty in Council.

**Modifications etc. (not altering text)**

- C68** S. 338 extended (1.5.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. 151(2)(c), [153\(3\)](#)
- C69** S. 338 power modified (13.3.2014) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), ss. 22(2), [23\(7\)](#)
- C70** S. 338 modified (12.2.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), ss. 95(1), [97\(3\)](#)
- C71** S. 338 power extended (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), s. 5(2)(3)(8); S.I. 2012/1236, [reg. 2](#)
- C72** S. 338 power extended (28.4.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), ss. 86(5)(6)(g), 87(3)(c)
- C73** S. 338(1) modified (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. [181\(7\)](#), 182(1)(f) (with s. 180, [Sch. 22](#))



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**C74** S. 338(1) power applied (12.2.2019) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), **ss. 26(7), 27(1)(c)**

### **339 Short title**

This Act may be cited as the Criminal Justice Act 2003.

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## SCHEDULES

### SCHEDULE 1

Section 12

#### AMENDMENTS RELATED TO PART 1

##### *The 1984 Act*

- 1 The 1984 Act is amended as follows.
- 2 In section 18 (entry and search after arrest), for subsection (5) there is substituted—
  - “(5) A constable may conduct a search under subsection (1)—
    - (a) before the person is taken to a police station or released on bail under section 30A, and
    - (b) without obtaining an authorisation under subsection (4),if the condition in subsection (5A) is satisfied.
  - (5A) The condition is that the presence of the person at a place (other than a police station) is necessary for the effective investigation of the offence.”
- 3 In section 21 (access and copying), at the end there is inserted—

“(9) The references to a constable in subsections (1), (2), (3)(a) and (5) include a person authorised under section 16(2) to accompany a constable executing a warrant.”
- 4 In section 22 (retention), at the end there is inserted—

“(7) The reference in subsection (1) to anything seized by a constable includes anything seized by a person authorised under section 16(2) to accompany a constable executing a warrant.”
- 5 In section 34 (limitation on police detention), for subsection (7) there is substituted—

“(7) For the purposes of this Part a person who—
  - (a) attends a police station to answer to bail granted under section 30A,
  - (b) returns to a police station to answer to bail granted under this Part, or
  - (c) is arrested under section 30D or 46A,is to be treated as arrested for an offence and that offence is the offence in connection with which he was granted bail.”
- 6 In section 35(1) (designated police stations), for “section 30(3) and (5) above” there is substituted “sections 30(3) and (5), 30A(5) and 30D(2)”.
- 7 In section 36 (custody officers at police stations), after subsection (7) there is inserted—

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“(7A) Subject to subsection (7B), subsection (7) applies where a person attends a police station which is not a designated station to answer to bail granted under section 30A as it applies where a person is taken to such a station.

(7B) Where subsection (7) applies because of subsection (7A), the reference in subsection (7)(b) to the officer who took him to the station is to be read as a reference to the officer who granted him bail.”

8 In section 41(2) (calculation of periods of time), after paragraph (c) there is inserted—

“(ca) in the case of a person who attends a police station to answer to bail granted under section 30A, the time when he arrives at the police station;”.

9 In section 45A(2)(a) (functions which may be performed by video-conferencing), after “taken to” there is inserted “, or answering to bail at, ”.

10 In section 47 (bail after arrest)—

- (a) in subsection (6), after “granted bail” there is inserted “ under this Part ”, and
- (b) in subsection (7), after “released on bail” there is inserted “ under this Part ”.

*Criminal Justice Act 1987 (c. 38)*

11 In section 2 of the Criminal Justice Act 1987 (director’s investigation powers), after subsection (6) there is inserted—

“(6A) Where an appropriate person accompanies a constable, he may exercise the powers conferred by subsection (5) but only in the company, and under the supervision, of the constable.”

12 In subsection (7) of that section (meaning of appropriate person), for “subsection (6) above” there is substituted “ this section ”.

13 In subsection (8D) of that section (references to evidence obtained by Director), after “by a constable” there is inserted “ or by an appropriate person ”.

*Criminal Justice and Police Act 2001 (c. 16)*

14 In section 56 of the Criminal Justice and Police Act 2001 (property seized by constables etc.), after subsection (4) there is inserted—

“(4A) Subsection (1)(a) includes property seized on any premises—

- (a) by a person authorised under section 16(2) of the 1984 Act to accompany a constable executing a warrant, or
- (b) by a person accompanying a constable under section 2(6) of the Criminal Justice Act 1987 in the execution of a warrant under section 2(4) of that Act.”

*Armed Forces Act 2001 (c. 19)*

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F735

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**Textual Amendments**

**F735** Sch. 1 para. 15 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

*Police Reform Act 2002 (c. 30)*

16 Schedule 4 to the Police Reform Act 2002 (powers exercisable by police civilians) is amended as follows.

**F736**17 .....

**Textual Amendments**

**F736** Sch. 1 paras. 17-19 omitted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 12 para. 16\(3\)](#); [S.I. 2017/1139](#), reg. 2(k) (as amended by [S.I. 2017/1162](#), reg. 2)

**F736**18 .....

**Textual Amendments**

**F736** Sch. 1 paras. 17-19 omitted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 12 para. 16\(3\)](#); [S.I. 2017/1139](#), reg. 2(k) (as amended by [S.I. 2017/1162](#), reg. 2)

**F736**19 .....

**Textual Amendments**

**F736** Sch. 1 paras. 17-19 omitted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 12 para. 16\(3\)](#); [S.I. 2017/1139](#), reg. 2(k) (as amended by [S.I. 2017/1162](#), reg. 2)

20 In paragraph 34 (powers of escort officer to take arrested person to prison), in sub-paragraph (1)(a), for “subsection (1) of section 30” there is substituted “subsection (1A) of section 30”.

SCHEDULE 2

CHARGING OR RELEASE OF PERSONS IN POLICE DETENTION

1 The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.

2 (1) Section 37 (duties of custody officers before charge) is amended as follows.

(2) In subsection (7) for paragraphs (a) and (b) there is substituted—

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- “(a) shall be released without charge and on bail for the purpose of enabling the Director of Public Prosecutions to make a decision under section 37B below,
- (b) shall be released without charge and on bail but not for that purpose,
- (c) shall be released without charge and without bail, or
- (d) shall be charged.”

(3) After that subsection there is inserted—

“(7A) The decision as to how a person is to be dealt with under subsection (7) above shall be that of the custody officer.

(7B) Where a person is released under subsection (7)(a) above, it shall be the duty of the custody officer to inform him that he is being released to enable the Director of Public Prosecutions to make a decision under section 37B below.”

(4) In subsection (8)(a) after “(7)(b)” there is inserted “ or (c) ”.

3 After that section there is inserted—

#### **“37A Guidance**

- (1) The Director of Public Prosecutions may issue guidance—
  - (a) for the purpose of enabling custody officers to decide how persons should be dealt with under section 37(7) above or 37C(2) below, and
  - (b) as to the information to be sent to the Director of Public Prosecutions under section 37B(1) below.
- (2) The Director of Public Prosecutions may from time to time revise guidance issued under this section.
- (3) Custody officers are to have regard to guidance under this section in deciding how persons should be dealt with under section 37(7) above or 37C(2) below.
- (4) A report under section 9 of the Prosecution of Offences Act 1985 (report by DPP to Attorney General) must set out the provisions of any guidance issued, and any revisions to guidance made, in the year to which the report relates.
- (5) The Director of Public Prosecutions must publish in such manner as he thinks fit—
  - (a) any guidance issued under this section, and
  - (b) any revisions made to such guidance.
- (6) Guidance under this section may make different provision for different cases, circumstances or areas.

#### **37B Consultation with the Director of Public Prosecutions**

- (1) Where a person is released on bail under section 37(7)(a) above, an officer involved in the investigation of the offence shall, as soon as is practicable, send to the Director of Public Prosecutions such information as may be specified in guidance under section 37A above.

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- (2) The Director of Public Prosecutions shall decide whether there is sufficient evidence to charge the person with an offence.
- (3) If he decides that there is sufficient evidence to charge the person with an offence, he shall decide—
  - (a) whether or not the person should be charged and, if so, the offence with which he should be charged, and
  - (b) whether or not the person should be given a caution and, if so, the offence in respect of which he should be given a caution.
- (4) The Director of Public Prosecutions shall give written notice of his decision to an officer involved in the investigation of the offence.
- (5) If his decision is—
  - (a) that there is not sufficient evidence to charge the person with an offence, or
  - (b) that there is sufficient evidence to charge the person with an offence but that the person should not be charged with an offence or given a caution in respect of an offence,a custody officer shall give the person notice in writing that he is not to be prosecuted.
- (6) If the decision of the Director of Public Prosecutions is that the person should be charged with an offence, or given a caution in respect of an offence, the person shall be charged or cautioned accordingly.
- (7) But if his decision is that the person should be given a caution in respect of the offence and it proves not to be possible to give the person such a caution, he shall instead be charged with the offence.
- (8) For the purposes of this section, a person is to be charged with an offence either—
  - (a) when he is in police detention after returning to a police station to answer bail or is otherwise in police detention at a police station, or
  - (b) in accordance with section 29 of the Criminal Justice Act 2003.
- (9) In this section “caution” includes—
  - (a) a conditional caution within the meaning of Part 3 of the Criminal Justice Act 2003, and
  - (b) a warning or reprimand under section 65 of the Crime and Disorder Act 1998.

### **37C Breach of bail following release under section 37(7)(a)**

- (1) This section applies where—
  - (a) a person released on bail under section 37(7)(a) above or subsection (2)(b) below is arrested under section 46A below in respect of that bail, and
  - (b) at the time of his detention following that arrest at the police station mentioned in section 46A(2) below, notice under section 37B(4) above has not been given.
- (2) The person arrested—

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- (a) shall be charged, or
  - (b) shall be released without charge, either on bail or without bail.
- (3) The decision as to how a person is to be dealt with under subsection (2) above shall be that of a custody officer.
- (4) A person released on bail under subsection (2)(b) above shall be released on bail subject to the same conditions (if any) which applied immediately before his arrest.

### **37D Release under section 37(7)(a): further provision**

- (1) Where a person is released on bail under section 37(7)(a) or section 37C(2)(b) above, a custody officer may subsequently appoint a different time, or an additional time, at which the person is to attend at the police station to answer bail.
- (2) The custody officer shall give the person notice in writing of the exercise of the power under subsection (1).
- (3) The exercise of the power under subsection (1) shall not affect the conditions (if any) to which bail is subject.
- (4) Where a person released on bail under section 37(7)(a) or 37C(2)(b) above returns to a police station to answer bail or is otherwise in police detention at a police station, he may be kept in police detention to enable him to be dealt with in accordance with section 37B or 37C above or to enable the power under subsection (1) above to be exercised.
- (5) If the person is not in a fit state to enable him to be so dealt with or to enable that power to be exercised, he may be kept in police detention until he is.
- (6) Where a person is kept in police detention by virtue of subsection (4) or (5) above, section 37(1) to (3) and (7) above (and section 40(8) below so far as it relates to section 37(1) to (3)) shall not apply to the offence in connection with which he was released on bail under section 37(7)(a) or 37C(2)(b) above.”

#### **Commencement Information**

**I155** Sch. 2 para. 3 wholly in force at 1.10.2007; Sch. 2 para. 3 not in force at Royal Assent, see s. 336(3); Sch. 2 para. 3 in force for certain purposes at 29.1.2004 by [S.I. 2004/81](#), [art. 4](#); Sch. 2 para. 3 in force for certain purposes at 3.7.2004 by [S.I. 2004/1629](#), [art. 2](#) and Sch. 2 para. 3 in force for certain further purposes at 1.10.2007 by [S.I. 2007/2874](#), [art. 2\(1\)\(3\)](#)

- 4 In section 40 (review of police detention) in subsection (9) after “37(9)” there is inserted “ or 37D(5) ”.
- 5 In section 46A (power of arrest for failure to answer police bail) after subsection (1) insert—
- “(1A) A person who has been released on bail under section 37(7)(a) or 37C(2)(b) above may be arrested without warrant by a constable if the constable has reasonable grounds for suspecting that the person has broken any of the conditions of bail.”



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*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 6 (1) Section 47 (bail after arrest) is amended as follows.
- (2) In subsection (1) (release on bail under Part 4 shall be release on bail granted in accordance with certain provisions of the Bail Act 1976) for “Subject to subsection (2) below” there is substituted “ Subject to the following provisions of this section ”.
- (3) In subsection (1A) (bail conditions may be imposed when a person is released under section 38(1)) after “section”, in the first place where it occurs, there is inserted “ 37(7)(a) above or section ”.
- (4) After that subsection there is inserted—
- “(1B) No application may be made under section 5B of the Bail Act 1976 if a person is released on bail under section 37(7)(a) or 37C(2)(b) above.
- (1C) Subsections (1D) to (1F) below apply where a person released on bail under section 37(7)(a) or 37C(2)(b) above is on bail subject to conditions.
- (1D) The person shall not be entitled to make an application under section 43B of the Magistrates' Courts Act 1980.
- (1E) A magistrates' court may, on an application by or on behalf of the person, vary the conditions of bail; and in this subsection “vary” has the same meaning as in the Bail Act 1976.
- (1F) Where a magistrates' court varies the conditions of bail under subsection (1E) above, that bail shall not lapse but shall continue subject to the conditions as so varied.”

### SCHEDULE 3

Section 41

#### ALLOCATION OF CASES TRIABLE EITHER WAY, AND SENDING CASES TO THE CROWN COURT ETC

#### PART 1

#### PRINCIPAL AMENDMENTS

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

- 1 The Magistrates' Courts Act 1980 is amended as follows.

#### **Commencement Information**

**I156** Sch. 3 para. 1 in force at 18.6.2012 by [S.I. 2012/1320](#), [art. 3\(d\)\(i\)](#)

- 2 (1) Section 17A (initial indication as to plea) is amended as follows.
- (2) For paragraph (b) of subsection (4) there is substituted—
- “(b) he may (unless section 17D(2) below were to apply) be committed [<sup>F737</sup>for sentence] to the Crown Court under section 3 or (if

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applicable) 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the court is of such opinion as is mentioned in subsection (2) of the applicable section.”

(3) After subsection (9) there is inserted—

“(10) If in respect of the offence the court receives a notice under section 51B or 51C of the Crime and Disorder Act 1998 (which relate to serious or complex fraud cases and to certain cases involving children respectively), the preceding provisions of this section and the provisions of section 17B below shall not apply, and the court shall proceed in relation to the offence in accordance with section 51 or, as the case may be, section 51A of that Act.”

#### Textual Amendments

**F737** Words in Sch. 3 para. 2 inserted (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 53, 153(1)(a), [Sch. 13 para. 2](#)

#### Commencement Information

**I157** Sch. 3 para. 2 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I158** Sch. 3 para. 2 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I159** Sch. 3 para. 2 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

3 After section 17C there is inserted—

#### “17D Maximum penalty under section 17A(6) or 17B(2)(c) for certain offences

(1) If—

- (a) the offence is a scheduled offence (as defined in section 22(1) below);
- (b) the court proceeds in relation to the offence in accordance with section 17A(6) or 17B(2)(c) above; and
- (c) the court convicts the accused of the offence,

the court shall consider whether, having regard to any representations made by him or by the prosecutor, the value involved (as defined in section 22(10) below) appears to the court to exceed the relevant sum (as specified for the purposes of section 22 below).

(2) If it appears to the court clear that the value involved does not exceed the relevant sum, or it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum—

- (a) subject to subsection (4) below, the court shall not have power to impose on the accused in respect of the offence a sentence in excess of the limits mentioned in section 33(1)(a) below; and
- (b) sections 3 and 4 of the Powers of Criminal Courts (Sentencing) Act 2000 shall not apply as regards that offence.

(3) Subsections (9) to (12) of section 22 below shall apply for the purposes of this section as they apply for the purposes of that section (reading the

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reference to subsection (1) in section 22(9) as a reference to subsection (1) of this section).

(4) Subsection (2)(a) above does not apply to an offence under section 12A of the Theft Act 1968 (aggravated vehicle-taking).

### 17E Functions under sections 17A to 17D capable of exercise by single justice

(1) The functions of a magistrates' court under sections 17A to 17D above may be discharged by a single justice.

(2) Subsection (1) above shall not be taken as authorising—

(a) the summary trial of an information (otherwise than in accordance with section 17A(6) or 17B(2)(c) above); or

(b) the imposition of a sentence,

by a magistrates' court composed of fewer than two justices.”

#### Commencement Information

**I160** Sch. 3 para. 3 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I161** Sch. 3 para. 3 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I162** Sch. 3 para. 3 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

4 In section 18 (initial procedure on information against adult for offence triable either way), for subsection (5) there is substituted—

“(5) The functions of a magistrates' court under sections 19 to 23 below may be discharged by a single justice, but this subsection shall not be taken as authorising—

(a) the summary trial of an information (otherwise than in accordance with section 20(7) below); or

(b) the imposition of a sentence,

by a magistrates' court composed of fewer than two justices.”

#### Commencement Information

**I163** Sch. 3 para. 4 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I164** Sch. 3 para. 4 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I165** Sch. 3 para. 4 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

5 For section 19 (court to begin by considering which mode of trial appears more suitable) there is substituted—

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### “19 Decision as to allocation

- (1) The court shall decide whether the offence appears to it more suitable for summary trial or for trial on indictment.
- (2) Before making a decision under this section, the court—
  - (a) shall give the prosecution an opportunity to inform the court of the accused’s previous convictions (if any); and
  - (b) shall give the prosecution and the accused an opportunity to make representations as to whether summary trial or trial on indictment would be more suitable.
- (3) In making a decision under this section, the court shall consider—
  - (a) whether the sentence which a magistrates' court would have power to impose for the offence would be adequate; and
  - (b) any representations made by the prosecution or the accused under subsection (2)(b) above,
 and shall have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section 170 of the Criminal Justice Act 2003.
- (4) Where—
  - (a) the accused is charged with two or more offences; and
  - (b) it appears to the court that the charges for the offences could be joined in the same indictment or that the offences arise out of the same or connected circumstances,
 subsection (3)(a) above shall have effect as if references to the sentence which a magistrates' court would have power to impose for the offence were a reference to the maximum aggregate sentence which a magistrates' court would have power to impose for all of the offences taken together.
- (5) In this section any reference to a previous conviction is a reference to—
  - (a) a previous conviction by a court in the United Kingdom; or
  - (b) a previous finding of guilt in—
    - (i) any proceedings under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence); or
    - (ii) any proceedings before a Standing Civilian Court.
- (6) If, in respect of the offence, the court receives a notice under section 51B or 51C of the Crime and Disorder Act 1998 (which relate to serious or complex fraud cases and to certain cases involving children respectively), the preceding provisions of this section and sections 20, 20A and 21 below shall not apply, and the court shall proceed in relation to the offence in accordance with section 51(1) of that Act.”

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#### Commencement Information

- I166** Sch. 3 para. 5 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I167** Sch. 3 para. 5 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)
- I168** Sch. 3 para. 5 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

- 6 For section 20 (procedure where summary trial appears more suitable) there is substituted—

#### “20 Procedure where summary trial appears more suitable

- (1) If the court decides under section 19 above that the offence appears to it more suitable for summary trial, the following provisions of this section shall apply (unless they are excluded by section 23 below).
- (2) The court shall explain to the accused in ordinary language—
  - (a) that it appears to the court more suitable for him to be tried summarily for the offence;
  - (b) that he can either consent to be so tried or, if he wishes, be tried on indictment; and
  - [<sup>F738</sup>(c) that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 3 or (if applicable) section 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the court is of such opinion as is mentioned in subsection (2) of the applicable section.]
- (3) The accused may then request an indication (“an indication of sentence”) of whether a custodial sentence or non-custodial sentence would be more likely to be imposed if he were to be tried summarily for the offence and to plead guilty.
- (4) If the accused requests an indication of sentence, the court may, but need not, give such an indication.
- (5) If the accused requests and the court gives an indication of sentence, the court shall ask the accused whether he wishes, on the basis of the indication, to reconsider the indication of plea which was given, or is taken to have been given, under section 17A or 17B above.
- (6) If the accused indicates that he wishes to reconsider the indication under section 17A or 17B above, the court shall ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.
- (7) If the accused indicates that he would plead guilty the court shall proceed as if—
  - (a) the proceedings constituted from that time the summary trial of the information; and
  - (b) section 9(1) above were complied with and he pleaded guilty under it.
- (8) Subsection (9) below applies where—

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- (a) the court does not give an indication of sentence (whether because the accused does not request one or because the court does not agree to give one);
  - (b) the accused either—
    - (i) does not indicate, in accordance with subsection (5) above, that he wishes; or
    - (ii) indicates, in accordance with subsection (5) above, that he does not wish,
 to reconsider the indication of plea under section 17A or 17B above; or
  - (c) the accused does not indicate, in accordance with subsection (6) above, that he would plead guilty.
- (9) The court shall ask the accused whether he consents to be tried summarily or wishes to be tried on indictment and—
- (a) if he consents to be tried summarily, shall proceed to the summary trial of the information; and
  - (b) if he does not so consent, shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.

#### **20A Procedure where summary trial appears more suitable: supplementary**

- (1) Where the case is dealt with in accordance with section 20(7) above, no court (whether a magistrates' court or not) may impose a custodial sentence for the offence unless such a sentence was indicated in the indication of sentence referred to in section 20 above.
- (2) Subsection (1) above is subject to sections 3A(4), 4(8) and 5(3) of the Powers of Criminal Courts (Sentencing) Act 2000.
- (3) Except as provided in subsection (1) above—
  - (a) an indication of sentence shall not be binding on any court (whether a magistrates' court or not); and
  - (b) no sentence may be challenged or be the subject of appeal in any court on the ground that it is not consistent with an indication of sentence.
- (4) Subject to section 20(7) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the accused under section 20 above whether (if the offence were to proceed to trial) he would plead guilty or not guilty; or
  - (b) an indication by the accused under that section of how he would plead.
- (5) Where the court gives an indication of sentence under section 20 above, it shall cause each such indication to be entered in the register.
- (6) In this section and in section 20 above, references to a custodial sentence are to a custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000, and references to a non-custodial sentence shall be construed accordingly.”

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### Textual Amendments

**F738** Sch. 3 para. 6: By [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 53, 153(1)(a), [Sch. 13 para. 3](#) it is provided (8.5.2008) that in para. 6 subsection (2)(c) of "the section set out in that paragraph" shall be substituted.

### Commencement Information

**I169** Sch. 3 para. 6 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I170** Sch. 3 para. 6 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I171** Sch. 3 para. 6 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

7 For section 21 (procedure where trial on indictment appears more suitable) there is substituted—

#### “21 Procedure where trial on indictment appears more suitable

If the court decides under section 19 above that the offence appears to it more suitable for trial on indictment, the court shall tell the accused that the court has decided that it is more suitable for him to be tried on indictment, and shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.”

### Commencement Information

**I172** Sch. 3 para. 7 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I173** Sch. 3 para. 7 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I174** Sch. 3 para. 7 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

8 (1) Section 23 (power of court, with consent of legally represented accused, to proceed in his absence) is amended as follows.

(2) In subsection (4)—

(a) for the words preceding paragraph (a) there is substituted “ If the court decides under section 19 above that the offence appears to it more suitable for [<sup>F739</sup>summary trial] then— ”, and

(b) in paragraph (b), for the words from “to inquire” to the end there is substituted “ in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998. ”.

(3) For subsection (5) there is substituted—

“(5) If the court decides under section 19 above that the offence appears to it more suitable for trial on indictment, section 21 above shall not apply and the court shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.”



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### Textual Amendments

**F739** Words in Sch. 3 para. 8(2)(a) substituted (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 53, 153(1)(a), [Sch. 13 para. 4](#)

### Commencement Information

**I175** Sch. 3 para. 8 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I176** Sch. 3 para. 8 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I177** Sch. 3 para. 8 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

9 (1) Section 24 (summary trial of information against child or young persons for indictable offence), as amended by section 42 of this Act, is amended as follows.

(2) For subsection (1) there is substituted—

“(1) Where a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an indictable offence he shall, subject to sections 51 and 51A of the Crime and Disorder Act 1998 and to sections 24A and 24B below, be tried summarily.”

(3) Subsections (1A) [<sup>F740</sup>, (1B)] and (2) are omitted.

[<sup>F741</sup>(4) In subsection (3) for “the said Act of 2000” substitute the Powers of Criminal Courts (Sentencing) Act 2000.]

### Textual Amendments

**F740** Words in Sch. 3 para. 9(3) inserted (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 53, 153(1)(a), [Sch. 13 para. 5\(2\)](#)

**F741** Sch. 3 para. 9(4) inserted (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 53, 153(1)(a), [Sch. 13 para. 5\(3\)](#)

### Commencement Information

**I178** Sch. 3 para. 9 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I179** Sch. 3 para. 9 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I180** Sch. 3 para. 9 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

10 After section 24 there is inserted—

### “24A Child or young person to indicate intention as to plea in certain cases

(1) This section applies where—

(a) a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998 (“the 1998 Act”); and

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- (b) but for the application of the following provisions of this section, the court would be required at that stage, by virtue of section 51(7) or (8) or 51A(3)(b), (4) or (5) of the 1998 Act to determine, in relation to the offence, whether to send the person to the Crown Court for trial (or to determine any matter, the effect of which would be to determine whether he is sent to the Crown Court for trial).
- (2) Where this section applies, the court shall, before proceeding to make any such determination as is referred to in subsection (1)(b) above (the “relevant determination”), follow the procedure set out in this section.
- (3) Everything that the court is required to do under the following provisions of this section must be done with the accused person in court.
- (4) The court shall cause the charge to be written down, if this has not already been done, and to be read to the accused.
- (5) The court shall then explain to the accused in ordinary language that he may indicate whether (if the offence were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty—
  - (a) the court must proceed as mentioned in subsection (7) below; and
  - (b) (in cases where the offence is one mentioned in section 91(1) of the Powers of Criminal Courts (Sentencing) Act 2000) he may be sent to the Crown Court for sentencing under section 3B or (if applicable) 3C of that Act if the court is of such opinion as is mentioned in subsection (2) of the applicable section.
- (6) The court shall then ask the accused whether (if the offence were to proceed to trial) he would plead guilty or not guilty.
- (7) If the accused indicates that he would plead guilty, the court shall proceed as if—
  - (a) the proceedings constituted from the beginning the summary trial of the information; and
  - (b) section 9(1) above was complied with and he pleaded guilty under it, and, accordingly, the court shall not (and shall not be required to) proceed to make the relevant determination or to proceed further under section 51 or (as the case may be) section 51A of the 1998 Act in relation to the offence.
- (8) If the accused indicates that he would plead not guilty, the court shall proceed to make the relevant determination and this section shall cease to apply.
- (9) If the accused in fact fails to indicate how he would plead, for the purposes of this section he shall be taken to indicate that he would plead not guilty.
- (10) Subject to subsection (7) above, the following shall not for any purpose be taken to constitute the taking of a plea—
  - (a) asking the accused under this section whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
  - (b) an indication by the accused under this section of how he would plead.

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### **24B Intention as to plea by child or young person: absence of accused**

- (1) This section shall have effect where—
- (a) a person under the age of 18 years appears or is brought before a magistrates' court on an information charging him with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998;
  - (b) but for the application of the following provisions of this section, the court would be required at that stage to make one of the determinations referred to in paragraph (b) of section 24A(1) above (“the relevant determination”);
  - (c) the accused is represented by a legal representative;
  - (d) the court considers that by reason of the accused’s disorderly conduct before the court it is not practicable for proceedings under section 24A above to be conducted in his presence; and
  - (e) the court considers that it should proceed in the absence of the accused.
- (2) In such a case—
- (a) the court shall cause the charge to be written down, if this has not already been done, and to be read to the representative;
  - (b) the court shall ask the representative whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the proceedings constituted from the beginning the summary trial of the information, and as if section 9(1) above was complied with and the accused pleaded guilty under it;
  - (d) if the representative indicates that the accused would plead not guilty the court shall proceed to make the relevant determination and this section shall cease to apply.
- (3) If the representative in fact fails to indicate how the accused would plead, for the purposes of this section he shall be taken to indicate that the accused would plead not guilty.
- (4) Subject to subsection (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (b) an indication by the representative under this section of how the accused would plead.

### **24C Intention as to plea by child or young person: adjournment**

- (1) A magistrates' court proceeding under section 24A or 24B above may adjourn the proceedings at any time, and on doing so on any occasion when the accused is present may remand the accused.
- (2) Where the court remands the accused, the time fixed for the resumption of proceedings shall be that at which he is required to appear or be brought

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before the court in pursuance of the remand or would be required to be brought before the court but for section 128(3A) below.

#### **24D Functions under sections 24A to 24C capable of exercise by single justice**

- (1) The functions of a magistrates' court under sections 24A to 24C above may be discharged by a single justice.
- (2) Subsection (1) above shall not be taken as authorising—
  - (a) the summary trial of an information (other than a summary trial by virtue of section 24A(7) or 24B(2)(c) above); or
  - (b) the imposition of a sentence,  
by a magistrates' court composed of fewer than two justices.”

#### **Commencement Information**

- I181** Sch. 3 para. 10 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I182** Sch. 3 para. 10 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)
- I183** Sch. 3 para. 10 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

- 11 (1) Section 25 (power to change from summary trial to committal proceedings and vice versa), as amended by section 42 of this Act, is amended as follows.
- (2) In subsection (1), for “(2) to (4)” there is substituted “ (2) to (2D) ”.
  - (3) For subsection (2) there is substituted—

“(2) Where the court is required under section 20(9) above to proceed to the summary trial of the information, the prosecution may apply to the court for the offence to be tried on indictment instead.
  - (2A) An application under subsection (2) above—
    - (a) must be made before the summary trial begins; and
    - (b) must be dealt with by the court before any other application or issue in relation to the summary trial is dealt with.
  - (2B) The court may grant an application under subsection (2) above but only if it is satisfied that the sentence which a magistrates' court would have power to impose for the offence would be inadequate.
  - (2C) Where—
    - (a) the accused is charged on the same occasion with two or more offences; and
    - (b) it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character,subsection (2B) above shall have effect as if references to the sentence which a magistrates' court would have power to impose for the offence were a reference to the maximum aggregate sentence which a magistrates' court would have power to impose for all of the offences taken together.

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(2D) Where the court grants an application under subsection (2) above, it shall proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.”

(4) Subsections (3) to (8) are omitted.

**Commencement Information**

- I184** Sch. 3 para. 11 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), **art. 4(1)(c)(2)(3)** (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I185** Sch. 3 para. 11 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), **Sch.** (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), **art. 2**) (with [S.I. 2013/1103](#), **art. 4**)
- I186** Sch. 3 para. 11 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), **art. 2(1)(c)(2)(3)** (with [arts. 3, 4](#))

12 For subsections (1) and (2) of section 26 (power to issue summons to accused in certain circumstances) there is substituted—

“(1) Where, in the circumstances mentioned in section 23(1)(a) above, the court is not satisfied that there is good reason for proceeding in the absence of the accused, the justice or any of the justices of which the court is composed may issue a summons directed to the accused requiring his presence before the court.

(2) In a case within subsection (1) above, if the accused is not present at the time and place appointed for the proceedings under section 19 or section 22(1) above, the court may issue a warrant for his arrest.”

**Commencement Information**

- I187** Sch. 3 para. 12 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), **art. 4(1)(c)(2)(3)** (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I188** Sch. 3 para. 12 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), **Sch.** (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), **art. 2**) (with [S.I. 2013/1103](#), **art. 4**)
- I189** Sch. 3 para. 12 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), **art. 2(1)(c)(2)(3)** (with [arts. 3, 4](#))

13 .....

14 Section 42 (restriction on justices sitting after dealing with bail) shall cease to have effect.

**Commencement Information**

- I190** Sch. 3 para. 14 in force at 18.6.2012 by [S.I. 2012/1320](#), **art. 3(d)(ii)**

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

15 The Crime and Disorder Act 1998 is amended as follows.

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#### Commencement Information

**I191** Sch. 3 para. 15 in force at 18.5.2012 by [S.I. 2012/1320](#), [art. 2\(b\)\(i\)](#) (with [art. 6\(1\)](#))

- 16 In section 50 (early administrative hearings), in subsection (1) (court may consist of single justice unless accused falls to be dealt with under section 51), the words “unless the accused falls to be dealt with under section 51 below” are omitted.

#### Commencement Information

**I192** Sch. 3 para. 16 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I193** Sch. 3 para. 16 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I194** Sch. 3 para. 16 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

- 17 After section 50 there is inserted—

#### “50A Order of consideration for either-way offences

- (1) Where an adult appears or is brought before a magistrates' court charged with an either-way offence (the “relevant offence”), the court shall proceed in the manner described in this section.
- (2) If notice is given in respect of the relevant offence under section 51B or 51C below, the court shall deal with the offence as provided in section 51 below.
- (3) Otherwise—
  - (a) if the adult (or another adult with whom the adult is charged jointly with the relevant offence) is or has been sent to the Crown Court for trial for an offence under section 51(2)(a) or 51(2)(c) below—
    - (i) the court shall first consider the relevant offence under subsection (3), (4), (5) or, as the case may be, (6) of section 51 below and, where applicable, deal with it under that subsection;
    - (ii) if the adult is not sent to the Crown Court for trial for the relevant offence by virtue of sub-paragraph (i) above, the court shall then proceed to deal with the relevant offence in accordance with sections 17A to 23 of the 1980 Act;
  - (b) in all other cases—
    - (i) the court shall first consider the relevant offence under sections 17A to 20 (excluding subsections (8) and (9) of section 20) of the 1980 Act;
    - (ii) if, by virtue of sub-paragraph (i) above, the court would be required to proceed in relation to the offence as mentioned in section 17A(6), 17B(2)(c) or 20(7) of that Act (indication of guilty plea), it shall proceed as so required (and, accordingly, shall not consider the offence under section 51 or 51A below);
    - (iii) if sub-paragraph (ii) above does not apply—

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- (a) the court shall consider the relevant offence under sections 51 and 51A below and, where applicable, deal with it under the relevant section;
  - (b) if the adult is not sent to the Crown Court for trial for the relevant offence by virtue of paragraph (a) of this sub-paragraph, the court shall then proceed to deal with the relevant offence as contemplated by section 20(9) or, as the case may be, section 21 of the 1980 Act.
- (4) Subsection (3) above is subject to any requirement to proceed as mentioned in subsections (2) or (6)(a) of section 22 of the 1980 Act (certain offences where value involved is small).
- (5) Nothing in this section shall prevent the court from committing the adult to the Crown Court for sentence pursuant to any enactment, if he is convicted of the relevant offence.”

#### Commencement Information

- I195** Sch. 3 para. 17 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I196** Sch. 3 para. 17 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I197** Sch. 3 para. 17 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

18 For section 51 (no committal proceedings for indictable-only offences) there is substituted—

#### “51 Sending cases to the Crown Court: adults

- (1) Where an adult appears or is brought before a magistrates' court (“the court”) charged with an offence and any of the conditions mentioned in subsection (2) below is satisfied, the court shall send him forthwith to the Crown Court for trial for the offence.
- (2) Those conditions are—
- (a) that the offence is an offence triable only on indictment other than one in respect of which notice has been given under section 51B or 51C below;
  - (b) that the offence is an either-way offence and the court is required under section 20(9)(b), 21, 23(4)(b) or (5) or 25(2D) of the Magistrates' Courts Act 1980 to proceed in relation to the offence in accordance with subsection (1) above;
  - (c) that notice is given to the court under section 51B or 51C below in respect of the offence.
- (3) Where the court sends an adult for trial under subsection (1) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged and which—
- (a) (if it is an either-way offence) appears to the court to be related to the offence mentioned in subsection (1) above; or



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- (b) (if it is a summary offence) appears to the court to be related to the offence mentioned in subsection (1) above or to the either-way offence, and which fulfils the requisite condition (as defined in subsection (11) below).
- (4) Where an adult who has been sent for trial under subsection (1) above subsequently appears or is brought before a magistrates' court charged with an either-way or summary offence which—
  - (a) appears to the court to be related to the offence mentioned in subsection (1) above; and
  - (b) (in the case of a summary offence) fulfils the requisite condition, the court may send him forthwith to the Crown Court for trial for the either-way or summary offence.
- (5) Where—
  - (a) the court sends an adult (“A”) for trial under subsection (1) or (3) above;
  - (b) another adult appears or is brought before the court on the same or a subsequent occasion charged jointly with A with an either-way offence; and
  - (c) that offence appears to the court to be related to an offence for which A was sent for trial under subsection (1) or (3) above,the court shall where it is the same occasion, and may where it is a subsequent occasion, send the other adult forthwith to the Crown Court for trial for the either-way offence.
- (6) Where the court sends an adult for trial under subsection (5) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged and which—
  - (a) (if it is an either-way offence) appears to the court to be related to the offence for which he is sent for trial; and
  - (b) (if it is a summary offence) appears to the court to be related to the offence for which he is sent for trial or to the either-way offence, and which fulfils the requisite condition.
- (7) Where—
  - (a) the court sends an adult (“A”) for trial under subsection (1), (3) or (5) above; and
  - (b) a child or young person appears or is brought before the court on the same or a subsequent occasion charged jointly with A with an indictable offence for which A is sent for trial under subsection (1), (3) or (5) above, or an indictable offence which appears to the court to be related to that offence,the court shall, if it considers it necessary in the interests of justice to do so, send the child or young person forthwith to the Crown Court for trial for the indictable offence.
- (8) Where the court sends a child or young person for trial under subsection (7) above, it may at the same time send him to the Crown Court for trial for any indictable or summary offence with which he is charged and which—
  - (a) (if it is an indictable offence) appears to the court to be related to the offence for which he is sent for trial; and

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- (b) (if it is a summary offence) appears to the court to be related to the offence for which he is sent for trial or to the indictable offence, and which fulfils the requisite condition.
- (9) Subsections (7) and (8) above are subject to sections 24A and 24B of the Magistrates' Courts Act 1980 (which provide for certain cases involving children and young persons to be tried summarily).
- (10) The trial of the information charging any summary offence for which a person is sent for trial under this section shall be treated as if the court had adjourned it under section 10 of the 1980 Act and had not fixed the time and place for its resumption.
- (11) A summary offence fulfils the requisite condition if it is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.
- (12) In the case of an adult charged with an offence—
  - (a) if the offence satisfies paragraph (c) of subsection (2) above, the offence shall be dealt with under subsection (1) above and not under any other provision of this section or section 51A below;
  - (b) subject to paragraph (a) above, if the offence is one in respect of which the court is required to, or would decide to, send the adult to the Crown Court under—
    - (i) subsection (5) above; or
    - (ii) subsection (6) of section 51A below,
 the offence shall be dealt with under that subsection and not under any other provision of this section or section 51A below.
- (13) The functions of a magistrates' court under this section, and its related functions under section 51D below, may be discharged by a single justice.

### **51A Sending cases to the Crown Court: children and young persons**

- (1) This section is subject to sections 24A and 24B of the Magistrates' Courts Act 1980 (which provide for certain offences involving children or young persons to be tried summarily).
- (2) Where a child or young person appears or is brought before a magistrates' court ("the court") charged with an offence and any of the conditions mentioned in subsection (3) below is satisfied, the court shall send him forthwith to the Crown Court for trial for the offence.
- (3) Those conditions are—
  - (a) that the offence falls within subsection (12) below;
  - (b) that the offence is such as is mentioned in subsection (1) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (other than one mentioned in paragraph (d) below in relation to which it appears to the court as mentioned there) and the court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of subsection (3) of that section;
  - (c) that notice is given to the court under section 51B or 51C below in respect of the offence;

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- (d) that the offence is a specified offence (within the meaning of section 224 of the Criminal Justice Act 2003) and it appears to the court that if he is found guilty of the offence the criteria for the imposition of a sentence under section 226(3) or 228(2) of that Act would be met.
- (4) Where the court sends a child or young person for trial under subsection (2) above, it may at the same time send him to the Crown Court for trial for any indictable or summary offence with which he is charged and which—
- (a) (if it is an indictable offence) appears to the court to be related to the offence mentioned in subsection (2) above; or
  - (b) (if it is a summary offence) appears to the court to be related to the offence mentioned in subsection (2) above or to the indictable offence, and which fulfils the requisite condition (as defined in subsection (9) below).
- (5) Where a child or young person who has been sent for trial under subsection (2) above subsequently appears or is brought before a magistrates' court charged with an indictable or summary offence which—
- (a) appears to the court to be related to the offence mentioned in subsection (2) above; and
  - (b) (in the case of a summary offence) fulfils the requisite condition,
- the court may send him forthwith to the Crown Court for trial for the indictable or summary offence.
- (6) Where—
- (a) the court sends a child or young person (“C”) for trial under subsection (2) or (4) above; and
  - (b) an adult appears or is brought before the court on the same or a subsequent occasion charged jointly with C with an either-way offence for which C is sent for trial under subsection (2) or (4) above, or an either-way offence which appears to the court to be related to that offence,
- the court shall where it is the same occasion, and may where it is a subsequent occasion, send the adult forthwith to the Crown Court for trial for the either-way offence.
- (7) Where the court sends an adult for trial under subsection (6) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged and which—
- (a) (if it is an either-way offence) appears to the court to be related to the offence for which he was sent for trial; and
  - (b) (if it is a summary offence) appears to the court to be related to the offence for which he was sent for trial or to the either-way offence, and which fulfils the requisite condition.
- (8) The trial of the information charging any summary offence for which a person is sent for trial under this section shall be treated as if the court had adjourned it under section 10 of the 1980 Act and had not fixed the time and place for its resumption.

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- (9) A summary offence fulfils the requisite condition if it is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.
- (10) In the case of a child or young person charged with an offence—
- (a) if the offence satisfies any of the conditions in subsection (3) above, the offence shall be dealt with under subsection (2) above and not under any other provision of this section or section 51 above;
  - (b) subject to paragraph (a) above, if the offence is one in respect of which the requirements of subsection (7) of section 51 above for sending the child or young person to the Crown Court are satisfied, the offence shall be dealt with under that subsection and not under any other provision of this section or section 51 above.
- (11) The functions of a magistrates' court under this section, and its related functions under section 51D below, may be discharged by a single justice.
- (12) An offence falls within this subsection if—
- (a) it is an offence of homicide; or
  - (b) each of the requirements of section 51A(1) of the Firearms Act 1968 would be satisfied with respect to—
    - (i) the offence; and
    - (ii) the person charged with it,if he were convicted of the offence.

### **51B Notices in serious or complex fraud cases**

- (1) A notice may be given by a designated authority under this section in respect of an indictable offence if the authority is of the opinion that the evidence of the offence charged—
- (a) is sufficient for the person charged to be put on trial for the offence; and
  - (b) reveals a case of fraud of such seriousness or complexity that it is appropriate that the management of the case should without delay be taken over by the Crown Court.
- (2) That opinion must be certified by the designated authority in the notice.
- (3) The notice must also specify the proposed place of trial, and in selecting that place the designated authority must have regard to the same matters as are specified in paragraphs (a) to (c) of section 51D(4) below.
- (4) A notice under this section must be given to the magistrates' court at which the person charged appears or before which he is brought.
- (5) Such a notice must be given to the magistrates' court before any summary trial begins.
- (6) The effect of such a notice is that the functions of the magistrates' court cease in relation to the case, except—
- (a) for the purposes of section 51D below;
  - (b) as provided by paragraph 2 of Schedule 3 to the Access to Justice Act 1999; and

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- (c) as provided by section 52 below.
- (7) The functions of a designated authority under this section may be exercised by an officer of the authority acting on behalf of the authority.
- (8) A decision to give a notice under this section shall not be subject to appeal or liable to be questioned in any court (whether a magistrates' court or not).
- (9) In this section “designated authority” means—
  - (a) the Director of Public Prosecutions;
  - (b) the Director of the Serious Fraud Office;
  - (c) the Commissioners of the Inland Revenue;
  - (d) the Commissioners of Customs and Excise; or
  - (e) the Secretary of State.

### **51C Notices in certain cases involving children**

- (1) A notice may be given by the Director of Public Prosecutions under this section in respect of an offence falling within subsection (3) below if he is of the opinion—
  - (a) that the evidence of the offence would be sufficient for the person charged to be put on trial for the offence;
  - (b) that a child would be called as a witness at the trial; and
  - (c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court.
- (2) That opinion must be certified by the Director of Public Prosecutions in the notice.
- (3) This subsection applies to an offence—
  - (a) which involves an assault on, or injury or a threat of injury to, a person;
  - (b) under section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16);
  - (c) under the Sexual Offences Act 1956, the Protection of Children Act 1978 or the Sexual Offences Act 2003;
  - (d) of kidnapping or false imprisonment, or an offence under section 1 or 2 of the Child Abduction Act 1984;
  - (e) which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b), (c) or (d) above.
- (4) Subsections (4), (5) and (6) of section 51B above apply for the purposes of this section as they apply for the purposes of that.
- (5) The functions of the Director of Public Prosecutions under this section may be exercised by an officer acting on behalf of the Director.
- (6) A decision to give a notice under this section shall not be subject to appeal or liable to be questioned in any court (whether a magistrates' court or not).
- (7) In this section “child” means—

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- (a) a person who is under the age of 17; or
- (b) any person of whom a video recording (as defined in section 63(1) of the Youth Justice and Criminal Evidence Act 1999) was made when he was under the age of 17 with a view to its admission as his evidence in chief in the trial referred to in subsection (1) above.

#### **51D Notice of offence and place of trial**

- (1) The court shall specify in a notice—
  - (a) the offence or offences for which a person is sent for trial under section 51 or 51A above; and
  - (b) the place at which he is to be tried (which, if a notice has been given under section 51B above, must be the place specified in that notice).
- (2) A copy of the notice shall be served on the accused and given to the Crown Court sitting at that place.
- (3) In a case where a person is sent for trial under section 51 or 51A above for more than one offence, the court shall specify in that notice, for each offence—
  - (a) the subsection under which the person is so sent; and
  - (b) if applicable, the offence to which that offence appears to the court to be related.
- (4) Where the court selects the place of trial for the purposes of subsection (1) above, it shall have regard to—
  - (a) the convenience of the defence, the prosecution and the witnesses;
  - (b) the desirability of expediting the trial; and
  - (c) any direction given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor under section 75(1) of the Supreme Court Act 1981.

#### **51E Interpretation of sections 50A to 51D**

For the purposes of sections 50A to 51D above—

- (a) “adult” means a person aged 18 or over, and references to an adult include a corporation;
- (b) “either-way offence” means an offence triable either way;
- (c) an either-way offence is related to an indictable offence if the charge for the either-way offence could be joined in the same indictment as the charge for the indictable offence;
- (d) a summary offence is related to an indictable offence if it arises out of circumstances which are the same as or connected with those giving rise to the indictable offence.”

#### **Commencement Information**

**1198** Sch. 3 para. 18 partly in force; Sch. 3 para. 18 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 18 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 29](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 3 para. 18 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

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- I199** Sch. 3 para. 18 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)
- I200** Sch. 3 para. 18 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

19 (1) After section 52 there is inserted—

**“52A Restrictions on reporting**

- (1) Except as provided by this section, it shall not be lawful—
- (a) to publish in the United Kingdom a written report of any allocation or sending proceedings in England and Wales; or
  - (b) to include in a relevant programme for reception in the United Kingdom a report of any such proceedings,
- if (in either case) the report contains any matter other than that permitted by this section.
- (2) Subject to subsections (3) and (4) below, a magistrates' court may, with reference to any allocation or sending proceedings, order that subsection (1) above shall not apply to reports of those proceedings.
- (3) Where there is only one accused and he objects to the making of an order under subsection (2) above, the court shall make the order if, and only if, it is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.
- (4) Where in the case of two or more accused one of them objects to the making of an order under subsection (2) above, the court shall make the order if, and only if, it is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.
- (5) An order under subsection (2) above shall not apply to reports of proceedings under subsection (3) or (4) above, but any decision of the court to make or not to make such an order may be contained in reports published or included in a relevant programme before the time authorised by subsection (6) below.
- (6) It shall not be unlawful under this section to publish or include in a relevant programme a report of allocation or sending proceedings containing any matter other than that permitted by subsection (7) below—
- (a) where, in relation to the accused (or all of them, if there are more than one), the magistrates' court is required to proceed as mentioned in section 20(7) of the 1980 Act, after the court is so required;
  - (b) where, in relation to the accused (or any of them, if there are more than one), the court proceeds other than as mentioned there, after conclusion of his trial or, as the case may be, the trial of the last to be tried.
- (7) The following matters may be contained in a report of allocation or sending proceedings published or included in a relevant programme without an order under subsection (2) above before the time authorised by subsection (6) above—
- (a) the identity of the court and the name of the justice or justices;
  - (b) the name, age, home address and occupation of the accused;



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- (c) in the case of an accused charged with an offence in respect of which notice has been given to the court under section 51B above, any relevant business information;
  - (d) the offence or offences, or a summary of them, with which the accused is or are charged;
  - (e) the names of counsel and solicitors engaged in the proceedings;
  - (f) where the proceedings are adjourned, the date and place to which they are adjourned;
  - (g) the arrangements as to bail;
  - (h) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.
- (8) The addresses that may be published or included in a relevant programme under subsection (7) above are addresses—
- (a) at any relevant time; and
  - (b) at the time of their publication or inclusion in a relevant programme.
- (9) The following is relevant business information for the purposes of subsection (7) above—
- (a) any address used by the accused for carrying on a business on his own account;
  - (b) the name of any business which he was carrying on on his own account at any relevant time;
  - (c) the name of any firm in which he was a partner at any relevant time or by which he was engaged at any such time;
  - (d) the address of any such firm;
  - (e) the name of any company of which he was a director at any relevant time or by which he was otherwise engaged at any such time;
  - (f) the address of the registered or principal office of any such company;
  - (g) any working address of the accused in his capacity as a person engaged by any such company;
- and here “engaged” means engaged under a contract of service or a contract for services.
- (10) Subsection (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports of court proceedings.
- (11) In this section—
- “allocation or sending proceedings” means, in relation to an information charging an indictable offence—
- (a) any proceedings in the magistrates' court at which matters are considered under any of the following provisions—
    - (i) sections 19 to 23 of the 1980 Act;
    - (ii) section 51, 51A or 52 above;
  - (b) any proceedings in the magistrates' court before the court proceeds to consider any matter mentioned in paragraph (a) above; and

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(c) any proceedings in the magistrates' court at which an application under section 25(2) of the 1980 Act is considered;

“publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;

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

“relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.

### **52B Offences in connection with reporting**

- (1) If a report is published or included in a relevant programme in contravention of section 52A above, each of the following persons is guilty of an offence—
  - (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
  - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
  - (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of the editor of a newspaper.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) Proceedings for an offence under this section shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney General.
- (4) Proceedings for an offence under this section shall not, in Northern Ireland, be instituted otherwise than by or with the consent of the Attorney General for Northern Ireland.
- (5) Subsection (11) of section 52A above applies for the purposes of this section as it applies for the purposes of that section.”

- (2) In section 121 (short title, commencement and extent)—
  - (a) in subsection (6), after paragraph (b) there is inserted—

“(bb) sections 52A and 52B;”, and
  - (b) in subsection (8), after “(5) above,” there is inserted “ sections 52A and 52B above, ”.

#### **Commencement Information**

**I201** Sch. 3 para. 19(1) in force at 18.6.2012 for specified purposes by [S.I. 2012/1320, art. 3\(d\)\(iii\)](#)

**I202** Sch. 3 para. 19(2)(a) in force at 18.6.2012 by [S.I. 2012/1320, art. 3\(d\)\(iii\)](#)

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- 20 (1) Schedule 3 (procedure where persons are sent for trial under section 51 of the Crime and Disorder Act 1998) is amended as follows.
- (2) In paragraph 1(1)—
- (a) after “51” there is inserted “ or 51A ”, and
  - (b) in paragraph (b), for “subsection (7) of that section” there is substituted “ section 51D(1) of this Act ”.
- (3) In paragraph 2—
- (a) in sub-paragraph (1)—
    - (i) after “51” there is inserted “ or 51A ”, and
    - (ii) for “subsection (7) of that section” there is substituted “ section 51D(1) of this Act ”, and
  - (b) sub-paragraphs (4) and (5) are omitted.
- (4) In paragraph 4, in sub-paragraph (1)(a), after “51” there is inserted “ or 51A ”.
- (5) In paragraph 5, in sub-paragraph (2), after “51” there is inserted “ or 51A ”.
- (6) Paragraph 6 is amended as follows—
- (a) in sub-paragraph (1), after “51” there is inserted “ or 51A ”,
  - (b) in sub-paragraph (2), for the words from the second “offence” to the end there is substituted “ indictable offence for which he was sent for trial or, as the case may be, any of the indictable offences for which he was so sent ”, and
  - (c) in sub-paragraph (9), for “indictable-only” there is substituted “ indictable ”.
- (7) In paragraph 7—
- (a) in sub-paragraph (1)(a), after “51” there is inserted “ or 51A ”,
  - (b) in sub-paragraph (1)(b), for “offence that is triable only on indictment” there is substituted “ main offence ”,
  - (c) in sub-paragraph (3), after “each” there is inserted “ remaining ”,
  - (d) in sub-paragraph (7), for “consider” there is substituted “ decide ”, and
  - (e) after sub-paragraph (8) there is inserted—
 

“(9) In this paragraph, a “main offence” is—

    - (a) an offence for which the person has been sent to the Crown Court for trial under section 51(1) of this Act; or
    - (b) an offence—
      - (i) for which the person has been sent to the Crown Court for trial under subsection (5) of section 51 or subsection (6) of section 51A of this Act (“the applicable subsection”); and
      - (ii) in respect of which the conditions for sending him to the Crown Court for trial under the applicable subsection (as set out in paragraphs (a) to (c) of section 51(5) or paragraphs (a) and (b) of section 51A(6)) continue to be satisfied.”
- (8) In paragraph 8—
- (a) in sub-paragraph (1)(a), after “51” there is inserted “ or 51A ”,

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- (b) in sub-paragraph (1)(b), for “offence that is triable only on indictment” there is substituted “ main offence (within the meaning of paragraph 7 above) ”,
- (c) in sub-paragraph (2)(a), after “each” there is inserted “ remaining ”, and
- (d) in sub-paragraph (2)(d), for “consider” there is substituted “ decide ”.

(9) In paragraph 9—

- (a) in sub-paragraph (1), for “consider” there is substituted “ decide ”, and
- (b) for sub-paragraphs (2) and (3), there is substituted—

“(2) Before deciding the question, the court—

- (a) shall give the prosecution an opportunity to inform the court of the accused’s previous convictions (if any); and
- (b) shall give the prosecution and the accused an opportunity to make representations as to whether summary trial or trial on indictment would be more suitable.

(3) In deciding the question, the court shall consider—

- (a) whether the sentence which a magistrates' court would have power to impose for the offence would be adequate; and
- (b) any representations made by the prosecution or the accused under sub-paragraph (2)(b) above,

and shall have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section 170 of the Criminal Justice Act 2003.

(4) Where—

- (a) the accused is charged on the same occasion with two or more offences; and
- (b) it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character;

sub-paragraph (3)(a) above shall have effect as if references to the sentence which a magistrates' court would have power to impose for the offence were a reference to the maximum aggregate sentence which a magistrates' court would have power to impose for all of the offences taken together.

(5) In this paragraph any reference to a previous conviction is a reference to—

- (a) a previous conviction by a court in the United Kingdom, or
- (b) a previous finding of guilt in—
  - (i) any proceedings under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence), or
  - (ii) any proceedings before a Standing Civilian Court.”

(10) In paragraph 10—

- (a) for sub-paragraph (2), there is substituted—

“(2) The court shall explain to the accused in ordinary language—

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- (a) that it appears to the court more suitable for him to be tried summarily for the offence;
  - (b) that he can either consent to be so tried or, if he wishes, be tried on indictment; and
  - (c) in the case of a specified offence (within the meaning of section 224 of the Criminal Justice Act 2003), that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the committing court is of such opinion as is mentioned in subsection (2) of that section.”, and
- (b) in sub-paragraph (3), for “by a jury” there is substituted “ on indictment ”.
- (11) In paragraph 11, in sub-paragraph (a), for “by a jury” there is substituted “ on indictment ”.
- (12) Paragraph 12 shall cease to have effect.
- (13) In paragraph 13—
- (a) in sub-paragraph (1)(a), after “51” there is inserted “ or 51A ”,
  - (b) in sub-paragraph (1)(b), for “offence that is triable only on indictment” there is substituted “ main offence ”,
  - (c) in sub-paragraph (2), the words from “unless” to the end are omitted, and
  - (d) for sub-paragraph (3) there is substituted—
- “(3) In this paragraph, a “main offence” is—
- (a) an offence for which the child or young person has been sent to the Crown Court for trial under section 51A(2) of this Act; or
  - (b) an offence—
    - (i) for which the child or young person has been sent to the Crown Court for trial under subsection (7) of section 51 of this Act; and
    - (ii) in respect of which the conditions for sending him to the Crown Court for trial under that subsection (as set out in paragraphs (a) and (b) of that subsection) continue to be satisfied.”
- (14) In paragraph 15, in each of sub-paragraphs (3) and (4), for “considered” there is substituted “ decided ”.

#### **Commencement Information**

- I203** Sch. 3 para. 20(1) (2) in force at 18.5.2012 by [S.I. 2012/1320](#), [art. 2\(b\)\(ii\)](#) (with [art. 6\(1\)](#))
- I204** Sch. 3 para. 20(3)-(14) in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I205** Sch. 3 para. 20(3)-(14) in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I206** Sch. 3 para. 20(3)-(14) in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

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

F743<sup>21</sup> .....

**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

PROSPECTIVE

F743<sup>22</sup> .....

**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

F743<sup>22A</sup> .....

**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

F743<sup>23</sup> .....

**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

F743<sup>24</sup> .....

**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

F743<sup>25</sup> .....

**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

F743<sup>26</sup> .....

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**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

**F743** 27 .....

**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

**F743** 28 .....

**Textual Amendments**

**F743** Sch. 3 paras. 21-28 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

**PART 2**

MINOR AND CONSEQUENTIAL AMENDMENTS

*Territorial Waters Jurisdiction Act 1878 (c. 73)*

- 29 In section 4 of the Territorial Waters Jurisdiction Act 1878 (provisions as to procedure), in the paragraph beginning “Proceedings before a justice of the peace”, for the words from the beginning to “his trial” there is substituted—
- “Any stage of proceedings—
- (a) before the summary trial of the offence; or
- (b) before the offender has been sent for trial for the offence.”

**Commencement Information**

**I207** Sch. 3 para. 29 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), **art. 4(1)(c)(2)(3)** (with [art. 5](#)) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4)

**I208** Sch. 3 para. 29 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), **art. 2(1)(c)(2)(3)**, **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by [S.I. 2012/2761](#), **art. 2**) (with [S.I. 2013/1103](#), **art. 4**)

**I209** Sch. 3 para. 29 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

*Bankers' Books Evidence Act 1879 (c. 11)*

- 30 (1) The Bankers' Books Evidence Act 1879 is amended as follows.
- (2) In section 4 (proof that book is a banker's book), the paragraph beginning “Where the proceedings” is omitted.



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- (3) In section 5 (verification of copy), the paragraph beginning “Where the proceedings” is omitted.

**Commencement Information**

- I210** Sch. 3 para. 30 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I211** Sch. 3 para. 30 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I212** Sch. 3 para. 30 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

*Explosive Substances Act 1883 (c. 3)*

- 31 In section 6 of the Explosive Substances Act 1883 (inquiry by Attorney-General, and apprehension of absconding witnesses), subsection (3) is omitted.

**Commencement Information**

- I213** Sch. 3 para. 31 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I214** Sch. 3 para. 31 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I215** Sch. 3 para. 31 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

*Criminal Justice Act 1925 (c. 86)*

- 32 In section 49 of the Criminal Justice Act 1925 (interpretation, etc), subsection (2) is omitted.

**Commencement Information**

- I216** Sch. 3 para. 32 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I217** Sch. 3 para. 32 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I218** Sch. 3 para. 32 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

*Children and Young Persons Act 1933 (c. 12)*

- 33 In section 42 of the Children and Young Persons Act 1933 (extension of power to take deposition of child or young person), in subsection (2)(a), for “committed” in both places there is substituted “sent”.

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#### Commencement Information

- I219** Sch. 3 para. 33 partly in force; Sch. 3 para. 33 not in force at Royal Assent, see. s. 336(3); Sch. 3 para. 33 in force for certain purposes at 9.5.2005 by S.I. 2005/1267, **art. 2**, Sch. para. 1(1)(a); Sch. 3 para. 33 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I220** Sch. 3 para. 33 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I221** Sch. 3 para. 33 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

#### *Administration of Justice (Miscellaneous Provisions) Act 1933 (c. 36)*

- 34 (1) Section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 (procedure for indictment of offenders) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), for “committed” there is substituted “sent”;
  - (b) paragraphs (aa) to (ac) are omitted;
  - (c) for paragraph (i) there is substituted—
    - (i) where the person charged has been sent for trial, the bill of indictment against him may include, either in substitution for or in addition to any count charging an offence specified in the notice under section 57D(1) of the Crime and Disorder Act 1998, any counts founded on material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to that Act, was served on the person charged, being counts which may lawfully be joined in the same indictment;”;
  - (d) paragraphs (iA) and (iB) are omitted;
  - (e) in paragraph (ii), for “the committal” there is substituted “such notice”, and
  - (f) the words from “and in paragraph (iA)” to the end are omitted.
- (3) In subsection (3)(b), for “committed” there is substituted “sent”.

#### Commencement Information

- I222** Sch. 3 para. 34 partly in force; Sch. 3 para. 34 not in force at Royal Assent, see. s. 336(3); Sch. 3 para. 34(1)(2)(a)(c)(i)(e)(3) in force for certain purposes at 9.5.2005 by S.I. 2005/1267, **art. 2**, Sch. paras. 1(1)(b), 2(a); Sch. 3 para. 34 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I223** Sch. 3 para. 34 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I224** Sch. 3 para. 34 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

#### *Criminal Justice Act 1948 (c. 58)*

- 35 (1) The Criminal Justice Act 1948 is amended as follows.

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- (2) In section 27 (remand and committal of persons aged 17 to 20), in subsection (1), for “commits him for trial or” there is substituted “ sends him to the Crown Court for trial or commits him there for ”.
- (3) In section 41 (evidence by certificate), subsection (5A) is omitted.
- (4) In section 80 (interpretation), the definition of “Court of summary jurisdiction” is omitted.

#### Commencement Information

- I225** Sch. 3 para. 35 partly in force; Sch. 3 para. 35 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 35(1)(2) in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 1\(1\)\(c\)](#); Sch. 3 para. 35 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I226** Sch. 3 para. 35 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I227** Sch. 3 para. 35 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### Prison Act 1952 (c. 52)

- 36 Until their repeal by (respectively) section 59 of, and paragraph 10(a)(ii) of Schedule 7 to, the Criminal Justice and Court Services Act 2000, paragraph (a) of subsection (1), and paragraphs (b) and (c) of subsection (2), of section 43 of the Prison Act 1952 (remand centres, detention centres and youth custody centres) are to have effect as if references to being committed for trial were references to being sent for trial.

#### Commencement Information

- I228** Sch. 3 para. 36 partly in force; Sch. 3 para. 36 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 36 in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 1\(1\)\(d\)](#); Sch. 3 para. 36 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I229** Sch. 3 para. 36 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I230** Sch. 3 para. 36 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### Army Act 1955 (3 & 4 Eliz. 2 c. 18)

F744 37 .....

#### Textual Amendments

- F744** Sch. 3 para. 37 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

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*Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)*

F745 38 .....

**Textual Amendments**

**F745** Sch. 3 para. 38 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

*Geneva Conventions Act 1957 (c. 52)*

- 39 In section 5 of the Geneva Conventions Act 1957 (reduction of sentence and custody of protected persons)—
- (a) in subsection (1), for “committal” there is substituted “ having been sent ”,
  - (b) in subsection (2), for “committal”, where it first appears, there is substituted “ having been sent ”.

**Commencement Information**

- I231** Sch. 3 para. 39 partly in force; Sch. 3 para. 39 not in force at Royal Assent, see. s. 336(3); Sch. 3 para. 39 in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 1\(1\)\(e\)](#); Sch. 3 para. 39 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I232** Sch. 3 para. 39 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I233** Sch. 3 para. 39 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

*Naval Discipline Act 1957 (c. 53)*

F746 40 .....

**Textual Amendments**

**F746** Sch. 3 para. 40 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

*Backing of Warrants (Republic of Ireland) Act 1965 (c. 45)*

- 41 In paragraph 4 of the Schedule to the Backing of Warrants (Republic of Ireland) Act 1965 (supplementary procedures as to proceedings under section 2)—
- (a) the words “and section 2 of the Poor Prisoners Defence Act 1930 (legal aid before examining justices)” are omitted, and
  - (b) for “it had determined not to commit for trial” there is substituted “ the offence were to be dealt with summarily and the court had dismissed the information ”.

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#### Commencement Information

- I234** Sch. 3 para. 41 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I235** Sch. 3 para. 41 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I236** Sch. 3 para. 41 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

#### *Criminal Procedure (Attendance of Witnesses) Act 1965 (c. 69)*

- 42 In section 2 of the Criminal Procedure (Attendance of Witnesses) Act 1965 (issue of witness summons on application to Crown Court)—
- (a) for subsection (4) there is substituted—
- “(4) Where a person has been sent for trial for any offence to which the proceedings concerned relate, an application must be made as soon as is reasonably practicable after service on that person, in pursuance of regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998, of the documents relevant to that offence.”, and
- (b) subsection (5) is omitted.

#### Commencement Information

- I237** Sch. 3 para. 42 partly in force; Sch. 3 para. 42 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 42 in force for certain purposes at 9.5.2005 by S.I. 2005/1267, **art. 2**, **Sch. para. 2(b)**; Sch. 3 para. 42 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I238** Sch. 3 para. 42 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I239** Sch. 3 para. 42 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

#### *Criminal Justice Act 1967 (c. 80)*

- 43 (1) The Criminal Justice Act 1967 is amended as follows.
- (2) In section 9 (proof by written statement), in subsection (1), the words “, other than committal proceedings,” are omitted.
- (3) In section 36 (interpretation), in subsection (1), the definition of “committal proceedings” is omitted.

#### Commencement Information

- I240** Sch. 3 para. 43 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I241** Sch. 3 para. 43 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)

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- I242** Sch. 3 para. 43 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Criminal Appeal Act 1968 (c. 19)*

- 44 (1) The Criminal Appeal Act 1968 is amended as follows.
- (2) In section 1 (right of appeal), in subsection (3), for “committed him” there is substituted “sent him to the Crown Court”.
- (3) In section 9 (appeal against sentence following conviction on indictment), in subsection (2), the words from “section 41” to “either way offence” are omitted.

#### **Commencement Information**

- I243** Sch. 3 para. 44 partly in force; Sch. 3 para. 44 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 44(1)(2) in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 1\(1\)\(f\)](#); Sch. 3 para. 44 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I244** Sch. 3 para. 44 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I245** Sch. 3 para. 44 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Firearms Act 1968 (c. 27)*

- 45 In Schedule 6 to the Firearms Act 1968 (prosecution and punishment of offences), in Part 2, paragraph 3 is omitted.

#### **Commencement Information**

- I246** Sch. 3 para. 45 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I247** Sch. 3 para. 45 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I248** Sch. 3 para. 45 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Theft Act 1968 (c. 60)*

- 46 In section 27 of the Theft Act 1968 (evidence and procedure on charge of theft or handling stolen goods), subsection (4A) is omitted.

#### **Commencement Information**

- I249** Sch. 3 para. 46 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I250** Sch. 3 para. 46 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))



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**I251** Sch. 3 para. 46 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

### *Criminal Justice Act 1972 (c. 71)*

47 In section 46 of the Criminal Justice Act 1972 (admissibility of written statements outside England and Wales), subsections (1A) to (1C) are omitted.

#### **Commencement Information**

**I252** Sch. 3 para. 47 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)

**I253** Sch. 3 para. 47 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)

**I254** Sch. 3 para. 47 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

### *Bail Act 1976 (c. 63)*

48 (1) The Bail Act 1976 is amended as follows.

(2) In section 3 (general provisions)—

(a) in subsection (8)—

(i) for “committed” there is substituted “sent”, and

(ii) after “for trial or” there is inserted “committed him on bail to the Crown Court”, and

(b) subsections (8A) and (8B), and the subsection (10) inserted by paragraph 12(b) of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33), are omitted.

(3) In section 5 (supplementary provisions about decisions on bail)—

(a) in subsection (6)(a), for “committing” there is substituted “sending”, and

(b) in subsection (6A)(a)—

(i) after “under” there is inserted “section 52(5) of the Crime and Disorder Act 1998,”,

(ii) sub-paragraph (i) is omitted,

(iii) after sub-paragraph (ii) there is inserted—

“(ia) section 17C (intention as to plea: adjournment);”, and

(iv) at the end of sub-paragraph (iii) there is inserted “or

(iv) section 24C (intention as to plea by child or young person: adjournment)”.

(4) In section 6 (offence of absconding by person released on bail), in subsection (6)(b), for “commits” there is substituted “sends”.

(5) In section 9 (offence of agreeing to indemnify sureties in criminal proceedings), in subsection (3)(b), for “commits” there is substituted “sends”.



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#### Commencement Information

- I255** Sch. 3 para. 48 partly in force; Sch. 3 para. 48 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 48(1)(2)(a)(i)(3)(a)(b)(i)(4)(5) in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. paras. 1\(1\)\(g\), 2\(c\)](#); Sch. 3 para. 48 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I256** Sch. 3 para. 48 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I257** Sch. 3 para. 48 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Interpretation Act 1978 (c. 30)*

- 49 In Schedule 1 to the Interpretation Act 1978 (words and expressions defined)—
- (a) in the definition of “Committed for trial”, paragraph (a) is omitted,
  - (b) after the entry for “Secretary of State” there is inserted—

““Sent for trial” means, in relation to England and Wales, sent by a magistrates' court to the Crown Court for trial pursuant to section 51 or 51A of the Crime and Disorder Act 1998.”

#### Commencement Information

- I258** Sch. 3 para. 49 partly in force; Sch. 3 para. 49 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 49 in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 1\(1\)\(h\)](#); Sch. 3 para. 49 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I259** Sch. 3 para. 49 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I260** Sch. 3 para. 49 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Customs and Excise Management Act 1979 (c. 2)*

- 50 In section 147 of the Customs and Excise Management Act 1979 (proceedings for offences), subsection (2) is omitted.

#### Commencement Information

- I261** Sch. 3 para. 50 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I262** Sch. 3 para. 50 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I263** Sch. 3 para. 50 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

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

- 51 (1) The Magistrates' Courts Act 1980 is amended as follows.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In section 2, as substituted by the Courts Act 2003 (trial of summary offences), in subsection (2), for “as examining justices over” there is substituted “ under sections 51 and 51A of the Crime and Disorder Act 1998 in respect of ”.
- (3) Sections 4 to 8 (which relate to committal proceedings) shall cease to have effect and the cross-heading preceding section 4 is omitted.
- (4) In section 8B, as inserted by the Courts Act 2003 (effect of rulings at pre-trial hearing), in subsection (6), the words “commits or” are omitted.
- (5) In section 29 (power of magistrates' court to remit a person under 17 for trial to a juvenile court in certain circumstances), in subsection (2)(b)(i), for the words from “proceeds” to the end there is substituted “ sends him to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998; and ”.
- (6) The following sections shall cease to have effect—
  - (a) section 97A (summons or warrant as to committal proceedings),
  - (b) section 103 (evidence of persons under 14 in committal proceedings for assault, sexual offences etc), and
  - (c) section 106 (false written statements tendered in evidence).
- (7) In section 128 (remand in custody or on bail)—
  - (a) in subsection (1)(b), the words “inquiring into or” are omitted,
  - (b) in subsection (1A)(a)—
    - (i) “5,” is omitted, and
    - (ii) for “or 18(4)” there is substituted “ , 18(4) or 24C ”,
  - (c) in subsection (3A)—
    - (i) “5,” is omitted, and
    - (ii) for “or 18(4)” there is substituted “ , 18(4) or 24C ”,
  - (d) in subsection (3C)(a)—
    - (i) “5,” is omitted, and
    - (ii) for “or 18(4)” there is substituted “ , 18(4) or 24C ”, and
  - (e) in subsection (3E)(a)—
    - (i) “5,” is omitted, and
    - (ii) for “or 18(4)” there is substituted “ , 18(4) or 24C ”.
- (8) In section 129 (further remand), in subsection (4)—
  - (a) for “commits a person” there is substituted “ sends a person to the Crown Court ”, and
  - (b) for “committed” there is substituted “ sent ”.
- (9) In section 130 (transfer of remand hearings), in subsection (1)—
  - (a) “5,” is omitted, and
  - (b) for “or 18(4)” there is substituted “ , 18(4) or 24C ”.
- (10) In section 145 (rules: supplementary provisions), in subsection (1), paragraph (f) is omitted.
- (11) In section 150 (interpretation of other terms), in subsection (1), the definition of “committal proceedings” is omitted.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (12) In section 155 (short title, extent and commencement), in subsection (2)(a), the words “8 (except subsection (9))” are omitted.
- (13) In Schedule 3 (corporations)—
- (a) in paragraph 2, sub-paragraph (a) is omitted,
  - (b) in paragraph 6, for “inquiry into, and trial of,” there is substituted “trial of”.
- (14) In Schedule 5 (transfer of remand hearings)—
- (a) paragraph 2 is omitted, and
  - (b) in paragraph 5, for “5, 10 or 18(4)” there is substituted “10, 17C, 18(4) or 24C”.

#### Commencement Information

- I264** Sch. 3 para. 51 partly in force; Sch. 3 para. 51 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 51(1)(2)(5)(8) in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 1\(1\)\(i\)](#); Sch. 3 para. 51 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I265** Sch. 3 para. 51 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I266** Sch. 3 para. 51 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Criminal Attempts Act 1981 (c. 47)*

- 52 In section 2 of the Criminal Attempts Act 1981 (application of procedures and other provisions to offences under section 1), in subsection (2)(g), the words “or committed for trial” are omitted.

#### Commencement Information

- I267** Sch. 3 para. 52 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I268** Sch. 3 para. 52 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I269** Sch. 3 para. 52 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Contempt of Court Act 1981 (c. 49)*

- 53 In section 4 of the Contempt of Court Act 1981 (contemporary reports of proceedings), in subsection (3), for paragraph (b) there is substituted—
- “(b) in the case of a report of allocation or sending proceedings of which publication is permitted by virtue only of subsection (6) of section 52A of the Crime and Disorder Act 1998 (“the 1998 Act”), if published as soon as practicable after publication is so permitted;
  - (c) in the case of a report of an application of which publication is permitted by virtue only of sub-paragraph (5) or (7) of paragraph 3 of Schedule 3 to the 1998 Act, if published as soon as practicable after publication is so permitted.”

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I270** Sch. 3 para. 53 in force at 18.6.2012 by [S.I. 2012/1320](#), [art. 3\(d\)\(iv\)](#) (with [art. 6\(2\)](#))

#### *Supreme Court Act 1981 (c. 54)*

- 54 (1) The Supreme Court Act 1981 is amended as follows.
- (2) In section 76 (committal for trial: alteration of place of trial)—
- (a) in subsection (1), for the words from “varying” (where it first appears) to “to Crown Court)” there is substituted “ substituting some other place for the place specified in a notice under section 51D(1) of the Crime and Disorder Act 1998 (a “section 51D notice”) ”,
  - (b) in subsection (3), for the words “fixed by the magistrates' court, as specified in a notice under a relevant transfer provision” there is substituted “ specified in a section 51D notice ”,
  - (c) subsection (5) is omitted, and
  - (d) in the heading, for “**Committal**” there is substituted “ Sending ”.
- (3) In section 77 (committal for trial: date of trial)—
- (a) in subsection (1), for “committal for trial or the giving of a notice of transfer under a relevant transfer provision” there is substituted “ being sent for trial ”,
  - (b) in subsection (2), for “committed by a magistrates' court or in respect of whom a notice of transfer under a relevant transfer provision has been given” there is substituted “ sent for trial ”,
  - (c) in subsection (3), for “of committal for trial or of a notice of transfer” there is substituted “ when the defendant is sent for trial ”,
  - (d) subsection (4) is omitted, and
  - (e) in the heading, for “**Committal**” there is substituted “ **Sending** ”.
- (4) In section 80 (process to compel appearance), in subsection (2), for “committed” there is substituted “ sent ”.
- (5) In section 81—
- (a) in subsection (1)—
    - (i) in paragraph (a)—
      - (a) the words “who has been committed in custody for appearance before the Crown Court or in relation to whose case a notice of transfer has been given under a relevant transfer provision or” are omitted, and
      - (b) after “51” there is inserted “ or 51A ”,
    - (ii) in paragraph (g), sub-paragraph (i) is omitted, and
  - (b) subsection (7) is omitted.

#### Commencement Information

**I271** Sch. 3 para. 54 partly in force; Sch. 3 para. 54 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 54(1)(3)(a)-(c)(4)(5)(a)(i)(b) in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch.](#)

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- paras. 1(1)(j), 2(d); Sch. 3 para. 54 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I272** Sch. 3 para. 54 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)
- I273** Sch. 3 para. 54 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

*Mental Health Act 1983 (c. 20)*

- 55 (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 43 (power of magistrates' court to commit for restriction order), for subsection (4) there is substituted—
- “(4) The powers of a magistrates' court under section 3 or 3B of the Powers of Criminal Courts (Sentencing) Act 2000 (which enable such a court to commit an offender to the Crown Court where the court is of the opinion, or it appears to the court, as mentioned in the section in question) shall also be exercisable by a magistrates' court where it is of that opinion (or it so appears to it) unless a hospital order is made in the offender's case with a restriction order.”
- (3) In section 52 (further provisions as to persons remanded by magistrates' courts)—
- (a) in subsection (2), for “committed” there is substituted “sent”,
  - (b) in subsection (5), for “committed” there is substituted “sent”,
  - (c) in subsection (6), for “committed” there is substituted “sent”, and
  - (d) in subsection (7), for the words from “inquire” to “1980” there is substituted “send him to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998”, and in paragraph (b) of that subsection, the words “where the court proceeds under subsection (1) of that section” are omitted.

**Commencement Information**

- I274** Sch. 3 para. 55 partly in force; Sch. 3 para. 55 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 55(1)(3) in force for certain purposes at 9.5.2005 by S.I. 2005/1267, art. 2, Sch para. 1(1)(k); Sch. 3 para. 55 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I275** Sch. 3 para. 55 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)
- I276** Sch. 3 para. 55 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

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

- 56 (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 62 (intimate samples), in subsection (10)—
- (a) sub-paragraph (i) of paragraph (a) is omitted, and
  - (b) in paragraph (aa), for sub-paragraphs (i) and (ii) there is substituted “paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal); and”.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In section 71 (microfilm copies), the paragraph beginning “Where the proceedings” is omitted.
- (4) In section 76 (confessions), subsection (9) is omitted.
- (5) In section 78 (exclusion of unfair evidence), subsection (3) is omitted.

#### Commencement Information

- I277** Sch. 3 para. 56 partly in force; Sch. 3 para. 56 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 56(1)(2)(b) in force for certain purposes at 9.5.2005 by S.I. 2005/1267, **art. 2**, Sch. para. 1(1)(I); Sch. 3 para. 56 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I278** Sch. 3 para. 56 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, **art. 2(1)(c)(2)(3)**, **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I279** Sch. 3 para. 56 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

#### Prosecution of Offences Act 1985 (c. 23)

- 57 (1) The Prosecution of Offences Act 1985 is amended as follows.
- (2) In section 7A (powers of non-legal staff), for subsection (6) there is substituted—

“(6) This section applies to an offence if it is triable only on indictment or is an offence for which the accused has been sent for trial.”
  - (3) In section 16 (defence costs)—
    - (a) in subsection (1), paragraph (b) is omitted, and
    - (b) in subsection (2)—
      - (i) in paragraph (a), for “committed” there is substituted “sent”, and
      - (ii) paragraph (aa) is omitted, and
    - (c) subsection (12) is omitted.
  - (4) In section 21 (interpretation), in subsection (6)(b), for “committed” there is substituted “sent”.
  - (5) In section 22 (power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings), in subsection (11)—
    - (a) in paragraph (a) of the definition of “appropriate court”, for “committed for trial, sent for trial under section 51 of the Crime and Disorder Act 1998” there is substituted “sent for trial”,
    - (b) for the definition of “custody of the Crown Court” there is substituted—

““custody of the Crown Court” includes custody to which a person is committed in pursuance of—

      - (a) section 43A of the Magistrates' Courts Act 1980 (magistrates' court dealing with a person brought before it following his arrest in pursuance of a warrant issued by the Crown Court); or
      - (b) section 52 of the Crime and Disorder Act 1998 (provisions supplementing section 51);”.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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- (6) In section 23 (discontinuance of proceedings in magistrates' court), in subsection (2), for paragraphs (a) to (c) there is substituted—
- “(a) any stage of the proceedings after the court has begun to hear evidence for the prosecution at a summary trial of the offence; or
  - (b) any stage of the proceedings after the accused has been sent for trial for the offence.”
- (7) In section 23A (discontinuance of proceedings after accused has been sent for trial)—
- (a) in paragraph (b) of subsection (1), the words from “under” to “1998” are omitted, and
  - (b) in subsection (2), for “51(7)” there is substituted “51D(1)”.

#### Commencement Information

- I280** Sch. 3 para. 57 partly in force; Sch. 3 para. 57 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 57(1)(2)(3)(b)(i)(4)(5)(a)(b)(6)(7)(a)(b) in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. paras. 1\(1\)\(m\)](#), [2\(e\)](#); Sch. 3 para. 57(1)(3)-(7) in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I281** Sch. 3 para. 57(1)(3)-(7) in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I282** Sch. 3 para. 57(1)(3)-(7) in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Criminal Justice Act 1987 (c. 38)*

- 58 (1) The Criminal Justice Act 1987 is amended as follows.
- (2) Sections 4 to 6 (which relate to the transfer of cases to the Crown Court) shall cease to have effect.
- (3) In section 11 (restrictions on reporting)—
- (a) in subsection (2), paragraph (a) is omitted,
  - (b) subsection (3) is omitted,
  - (c) in subsection (7), “(3),” is omitted,
  - (d) in subsection (8), “(3),” is omitted,
  - (e) subsections (9) and (10) are omitted,
  - (f) in subsection (11), paragraphs (a) and (d) are omitted.

#### Commencement Information

- I283** Sch. 3 para. 58 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I284** Sch. 3 para. 58 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I285** Sch. 3 para. 58 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Coroners Act 1988 (c. 13)*

- 59 (1) The Coroners Act 1988 is amended as follows.



*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In section 16 (adjournment of inquest in event of criminal proceedings)—
- (a) in subsection (1)(b), for “charged before examining justices with” there is substituted “sent for trial for”, and
  - (b) for subsection (8) there is substituted—
    - “(8) In this section, the “relevant criminal proceedings” means the proceedings—
    - (a) before a magistrates' court to determine whether the person charged is to be sent to the Crown Court for trial; or
    - (b) before any court to which that person is sent for trial.”
- (3) In section 17 (provisions supplementary to section 16)—
- (a) in subsection (2), for “committed” there is substituted “sent”, and
  - (b) in subsection (3)(b), for “committed” there is substituted “sent”.

#### Commencement Information

- I286** Sch. 3 para. 59 partly in force; Sch. 3 para. 59 not in force at Royal Assent, see. s. 336(3); Sch. 3 para. 59 in force for certain purposes at 9.5.2005 by S.I. 2005/1267, **art. 2**, Sch. para. 1(1)(n); Sch. 3 para. 59 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I287** Sch. 3 para. 59 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, **art. 2(1)(c)(2)(3)**, **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I288** Sch. 3 para. 59 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

#### Criminal Justice Act 1988 (c. 33)

- 60 (1) The Criminal Justice Act 1988 is amended as follows.
- (2) In section 23 (first-hand hearsay), subsection (5) is omitted.
  - (3) In section 24 (business etc documents), subsection (5) is omitted.
  - (4) In section 26 (statements in certain documents), the paragraph beginning “This section shall not apply” is omitted.
  - (5) In section 27 (proof of statements contained in documents), the paragraph beginning “This section shall not apply” is omitted.
  - (6) In section 30 (expert reports), subsection (4A) is omitted.
  - (7) In section 40 (power to join in indictment count for common assault etc), in subsection (1)—
    - (a) the words “were disclosed to a magistrates' court inquiring into the offence as examining justices or” are omitted,
    - (b) after “51” there is inserted “ or 51A ”.
  - (8) Section 41 (power of Crown Court to deal with summary offence where person committed for either way offence) shall cease to have effect.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

- I289** Sch. 3 para. 60 partly in force; Sch. 3 para. 60 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 60(1)(7)(b) in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 2\(f\)](#); Sch. 3 para. 60 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I290** Sch. 3 para. 60 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I291** Sch. 3 para. 60 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Road Traffic Offenders Act 1988 (c. 53)*

- 61 (1) The Road Traffic Offenders Act 1988 is amended as follows.
- (2) In section 11 (evidence by certificate as to driver, user or owner), subsection (3A) is omitted.
- (3) In section 13 (admissibility of records as evidence), subsection (7) is omitted.
- (4) In section 16 (documentary evidence as to specimens), subsection (6A) is omitted.
- (5) In section 20 (speeding offences etc), subsection (8A) is omitted.

#### Commencement Information

- I292** Sch. 3 para. 61 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I293** Sch. 3 para. 61 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I294** Sch. 3 para. 61 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

#### *Criminal Justice Act 1991 (c. 53)*

- 62 (1) The Criminal Justice Act 1991 is amended as follows.
- (2) Section 53 (notices of transfer in certain cases involving children) shall cease to have effect.
- (3) Schedule 6 (notices of transfer: procedures in lieu of committal) shall cease to have effect.

#### Commencement Information

- I295** Sch. 3 para. 62 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I296** Sch. 3 para. 62 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))
- I297** Sch. 3 para. 62 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Sexual Offences (Amendment) Act 1992 (c. 34)*

- 63 In section 6 of the Sexual Offences (Amendment) Act 1992 (interpretation), in subsection (3)(c), for “commits him” there is substituted “ sends him to the Crown Court ”.

**Commencement Information**

- I298** Sch. 3 para. 63 partly in force; Sch. 3 para. 63 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 63 in force for certain purposes at 9.5.2005 by S.I. 2005/1267, **art. 2**, Sch. para. 1(1)(o); Sch. 3 para. 63 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I299** Sch. 3 para. 63 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, **art. 2(1)(c)(2)(3)**, **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I300** Sch. 3 para. 63 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

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

- 64 (1) The Criminal Justice and Public Order Act 1994 is amended as follows.
- (2) In section 34 (effect of accused’s failure to mention facts when questioned or charged), in subsection (2)—
- (a) paragraph (a) is omitted, and
  - (b) in paragraph (b), for sub-paragraphs (i) and (ii), there is substituted “ paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 ”.
- (3) In section 36 (effect of accused’s failure or refusal to account for objects, substances or marks), in subsection (2)—
- (a) paragraph (a) is omitted, and
  - (b) in paragraph (b), for sub-paragraphs (i) and (ii), there is substituted “ paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 ”.
- (4) In section 37 (effect of accused’s failure or refusal to account for presence at a particular place), in subsection (2)—
- (a) paragraph (a) is omitted, and
  - (b) in paragraph (b), for sub-paragraphs (i) and (ii), there is substituted “ paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 ”.

**Commencement Information**

- I301** Sch. 3 para. 64 partly in force; Sch. 3 para. 64 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 64(1)(2)(b)(3)(b)(4)(b) in force for certain purposes at 9.5.2005 by S.I. 2005/1267, **art. 2**, Sch. para. 1(1)(p); Sch. 3 para. 64 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I302** Sch. 3 para. 64 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, **art. 2(1)(c)(2)(3)**, **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I303** Sch. 3 para. 64 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

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*Reserve Forces Act 1996 (c. 14)*

F747 65 .....

**Textual Amendments**

**F747** Sch. 3 para. 65 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

*Criminal Procedure and Investigations Act 1996 (c. 25)*

- 66 (1) The Criminal Procedure and Investigations Act 1996 is amended as follows.
- (2) In section 1 (application of this Part), in subsection (2)—
- (a) paragraphs (a) to (c) are omitted, and
  - (b) in paragraph (cc), the words from “under” to the end are omitted.
- (3) In section 5 (compulsory disclosure by accused)—
- (a) in subsection (1), for “(2) to” there is substituted “ (3A) and ”,
  - (b) subsections (2) and (3) are omitted, and
  - (c) in subsection (3A), in paragraph (b), for “subsection (7) of section 51” there is substituted “ subsection (1) of section 51D ”.
- (4) In section 13 (time limits: transitional), in subsection (1), paragraphs (a) to (c) of the modified section 3(8) are omitted.
- (5) In section 21 (common law rules as to disclosure), in subsection (3), for paragraphs (b) and (c) there is substituted—
- “(b) the accused is sent for trial (where this Part applies by virtue of section 1(2)(cc)),”.
- (6) In section 28 (introduction to Part 3), in subsection (1)—
- (a) for paragraph (a) there is substituted—
- “(a) on or after the appointed day the accused is sent for trial for the offence concerned,”, and
- (b) paragraph (b) is omitted.
- (7) In section 39 (meaning of pre-trial hearing), in subsection (1), for paragraph (a) there is substituted—
- “(a) after the accused has been sent for trial for the offence, and”.
- (8) Section 68 (use of written statements and depositions at trial) and Schedule 2 (statements and depositions) shall cease to have effect.

**Commencement Information**

- I304** Sch. 3 para. 66 partly in force; Sch. 3 para. 66 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 66(1)(2)(b)(3)(c)(6)(a)(7) in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. paras. 1\(1\)\(q\), 2\(g\)](#); Sch. 3 para. 66 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))
- I305** Sch. 3 para. 66 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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**I306** Sch. 3 para. 66 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

*Sexual Offences (Protected Material) Act 1997 (c. 39)*

67 In section 9 of the Sexual Offences (Protected Material) Act 1997 (modification and amendment of certain enactments), subsection (1) is omitted.

**Commencement Information**

**I307** Sch. 3 para. 67 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I308** Sch. 3 para. 67 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I309** Sch. 3 para. 67 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

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

68 The Crime and Disorder Act 1998 is amended as follows.

**Commencement Information**

**I310** Sch. 3 para. 68 partly in force; Sch. 3 para. 68 not in force at Royal Assent, see. s. 336(3); Sch. 3 para. 33 in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 2\(h\)](#); Sch. 3 para. 68 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I311** Sch. 3 para. 68 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I312** Sch. 3 para. 68 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

69 In section 52 (provisions supplementing section 51)—

- (a) in subsection (1), after “51” there is inserted “ or 51A ”,
- (b) in subsection (3), after “51” there is inserted “ or 51A ”,
- (c) in subsection (5), after “51” there is inserted “ or 51A ”,
- (d) in subsection (6), after “51” there is inserted “ or 51A ”, and
- (e) in the heading, after “51” there is inserted “ and 51A ”.

**Commencement Information**

**I313** Sch. 3 para. 69 partly in force; Sch. 3 para. 69 not in force at Royal Assent, see. s. 336(3); Sch. 3 para. 69 in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 2\(h\)](#); Sch. 3 para. 69 in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

**I314** Sch. 3 para. 69 in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I315** Sch. 3 para. 69 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

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PROSPECTIVE

70 In section 121 (short title, commencement and extent), in subsection (8), before “paragraphs 7(1)” there is inserted “ paragraph 3 of Schedule 3 to this Act, section 52(6) above so far as relating to that paragraph, ”.

71 In paragraph 3 of Schedule 3 (reporting restrictions)—

(a) in each of paragraphs (a) and (b) of sub-paragraph (1), for “Great Britain” there is substituted “ the United Kingdom ”,

(b) in sub-paragraph (8), after paragraph (b) there is inserted—

“(bb) where the application made by the accused under paragraph 2(1) above relates to a charge for an offence in respect of which notice has been given to the court under section 51B of this Act, any relevant business information;”,

(c) after sub-paragraph (9) there is inserted—

“(9A) The following is relevant business information for the purposes of sub-paragraph (8) above—

(a) any address used by the accused for carrying on a business on his own account;

(b) the name of any business which he was carrying on on his own account at any relevant time;

(c) the name of any firm in which he was a partner at any relevant time or by which he was engaged at any such time;

(d) the address of any such firm;

(e) the name of any company of which he was a director at any relevant time or by which he was otherwise engaged at any such time;

(f) the address of the registered or principal office of any such company;

(g) any working address of the accused in his capacity as a person engaged by any such company;

and here “engaged” means engaged under a contract of service or a contract for services.”, and

(d) after sub-paragraph (11) there is inserted—

“(11A) Proceedings for an offence under this paragraph shall not, in Northern Ireland, be instituted otherwise than by or with the consent of the Attorney General for Northern Ireland.”

**Commencement Information**

**I316** Sch. 3 para. 71(a)-(c) in force at 18.6.2012 for specified purposes by [S.I. 2012/1320](#), [art. 4\(1\)\(c\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [28.5.2013](#) for specified purposes, [S.I. 2013/1103](#), [art. 2\(1\)\(c\),\(2\),\(3\)](#), [art. 3, 4](#))

**I317** Sch. 3 para. 71(a)-(c) in force at 5.11.2012 for specified purposes by [S.I. 2012/2574](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#))

**I318** Sch. 3 para. 71(a)-(c) in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(c\)\(2\)\(3\)](#) (with [arts. 3, 4](#))



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- 72 In paragraph 4 of Schedule 3 (power of justice to take depositions etc), in sub-paragraph (12), for the definition of “the relevant date” there is substituted—
- ““the relevant date” means the expiry of the period referred to in paragraph 1(1) above.”

**Commencement Information**

- I319** Sch. 3 para. 72 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I320** Sch. 3 para. 72 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)
- I321** Sch. 3 para. 72 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

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

- 73 (1) The Youth Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) In section 27 (video recorded evidence in chief), subsection (10) is omitted.
- (3) In section 42 (interpretation and application of section 41), in subsection (3)—
- (a) paragraphs (a) and (b) are omitted, and
- (b) in paragraph (c), after “51” there is inserted “ or 51A ”.

**Commencement Information**

- I322** Sch. 3 para. 73 partly in force; Sch. 3 para. 73 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 73(1)(3)(b) in force for certain purposes at 9.5.2005 by S.I. 2005/1267, art. 2, Sch. para. 2(i); Sch. 3 para. 73 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I323** Sch. 3 para. 73 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, art. 2(1)(c)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)
- I324** Sch. 3 para. 73 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

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

- 74 (1) The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- <sup>F748</sup>(2) .....
- <sup>F748</sup>(3) .....
- (4) In section 140 (enforcement of fines etc), in subsection (1)(b)—
- (a) the words “was committed to the Crown Court to be tried or dealt with or by which he” are omitted, and
- (b) after “51” there is inserted “ or 51A ”.
- <sup>F749</sup>(5) .....
- (6) In Schedule 11, paragraph 9 is omitted.



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#### Textual Amendments

- F748** Sch. 3 para. 74(2)(3) 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
- F749** Sch. 3 para. 74(5) 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

#### Modifications etc. (not altering text)

- C75** Sch. 3 para. 74 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), ss. 1, 5(2)(3); S.I. 2012/1236, reg. 2

#### Commencement Information

- I325** Sch. 3 para. 74 partly in force; Sch. 3 para. 74 not in force at Royal Assent, see s. 336(3); Sch. 3 para. 74(1)(2)(3)(b)(4)(b)(5) in force for certain purposes at 9.5.2005 by S.I. 2005/1267, **art. 2**, **Sch. paras. 1(1)(r), 2(j)**; Sch. 3 para. 74 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I326** Sch. 3 para. 74 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, **art. 2(1)(c)(2)(3)**, **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I327** Sch. 3 para. 74 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

#### *Proceeds of Crime Act 2002 (c. 29)*

- 75 (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 6 (making of confiscation order), in subsection (2)(b), for “section 3, 4 or 6” there is substituted “ section 3, 3A, 3B, 3C, 4, 4A or 6 ”.
- <sup>F750</sup>(3) .....
- (4) In section 70 (committal by magistrates' court), in subsection (5), after “way)” there is inserted “ or under section 3B(2) of that Act (committal of child or young person) ”.

#### Textual Amendments

- F750** Sch. 3 para. 75(3) omitted (1.6.2015) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 4 para. 67**; S.I. 2015/820, reg. 3(q)(viii)

#### Commencement Information

- I328** Sch. 3 para. 75 in force at 18.6.2012 for specified purposes by S.I. 2012/1320, **art. 4(1)(c)(2)(3)** (with **art. 5**) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)
- I329** Sch. 3 para. 75 in force at 5.11.2012 for specified purposes by S.I. 2012/2574, **art. 2(1)(c)(2)(3)**, **Sch.** (with **arts. 3, 4**) (as amended (4.11.2012) by S.I. 2012/2761, **art. 2**) (with S.I. 2013/1103, **art. 4**)
- I330** Sch. 3 para. 75 in force at 28.5.2013 for specified purposes by S.I. 2013/1103, **art. 2(1)(c)(2)(3)** (with **arts. 3, 4**)

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## F751 SCHEDULE 3A

### PROHIBITIONS AND LIMITATIONS ON USE OF LIVE LINKS

#### Textual Amendments

**F751** Sch. 3A inserted (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 23 para. 8** (with ss. 88-90) (as amended (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 301(3) (with **Sch. 27**); S.I. 2020/1236, **reg. 2**) (which affecting provision is continued by The Coronavirus Act 2020 (Delay in Expiry: Inquests, Courts and Tribunals, and Statutory Sick Pay) (England and Wales and Northern Ireland) Regulations 2022 (S.I. 2022/362), regs. 1(2), **2**; but then repealed (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 201(1), 208(5)**)

#### *F751 Conduct of proceedings wholly as audio proceedings*

F751<sub>1</sub> .....

#### *F751 Conduct of proceedings wholly as video proceedings*

F751<sub>2</sub> .....

#### *Other use of live audio links in preliminary and incidental proceedings etc*

F751<sub>3</sub> .....

#### *F751 Other use of live audio links in other eligible criminal proceedings*

F751<sub>4</sub> .....

#### *F751 Other limitations to apply also*

F751<sub>5</sub> .....

PROSPECTIVE

## SCHEDULE 4

Section 62

### QUALIFYING OFFENCES FOR PURPOSES OF SECTION 62

#### PART 1

#### LIST OF OFFENCES

#### *Offences Against the Person*

#### *Murder*

1 Murder.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
 Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Attempted murder*

- 2 An offence under section 1 of the Criminal Attempts Act 1981 (c. 47) of attempting to commit murder.

*Soliciting murder*

- 3 An offence under section 4 of the Offences against the Person Act 1861 (c. 100).

*Manslaughter*

- 4 Manslaughter.

<sup>F752</sup>*Corporate manslaughter*

**Textual Amendments**

**F752** Sch. 4 para. 4A and cross-heading inserted (6.4.2008) by [Corporate Manslaughter and Corporate Homicide Act 2007 \(c. 19\)](#), ss. 26, 27, **Sch. 2 para. 2**; S.I. 2008/401, **art. 2**

- 4A An offence under section 1 of the Corporate Manslaughter and Corporate Homicide Act 2007.]

**Textual Amendments**

**F752** Sch. 4 para. 4A and cross-heading inserted (6.4.2008) by [Corporate Manslaughter and Corporate Homicide Act 2007 \(c. 19\)](#), ss. 26, 27, **Sch. 2 para. 2**; S.I. 2008/401, **art. 2**

*Wounding or causing grievous bodily harm with intent*

- 5 An offence under section 18 of the Offences against the Person Act 1861 (c. 100).

*Kidnapping*

- 6 Kidnapping.

*Sexual Offences*

*Rape*

- 7 An offence under section 1 of the Sexual Offences Act 1956 (c. 69) or section 1 of the Sexual Offences Act 2003 (c. 42).

*Attempted rape*

- 8 An offence under section 1 of the Criminal Attempts Act 1981 (c. 47) of attempting to commit an offence under section 1 of the Sexual Offences Act 1956 or section 1 of the Sexual Offences Act 2003.

*Intercourse with a girl under thirteen*

- 9 An offence under section 5 of the Sexual Offences Act 1956.

*Incest by a man with a girl under thirteen*

- 10 An offence under section 10 of the Sexual Offences Act 1956 alleged to have been committed with a girl under thirteen.

*Assault by penetration*

- 11 An offence under section 2 of the Sexual Offences Act 2003.

*Causing a person to engage in sexual activity without consent*

- 12 An offence under section 4 of the Sexual Offences Act 2003 where it is alleged that the activity caused involved penetration within subsection (4)(a) to (d) of that section.

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**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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*Rape of a child under thirteen*

- 13 An offence under section 5 of the Sexual Offences Act 2003.  
*Attempted rape of a child under thirteen*
- 14 An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence under section 5 of the Sexual Offences Act 2003.  
*Assault of a child under thirteen by penetration*
- 15 An offence under section 6 of the Sexual Offences Act 2003.  
*Causing a child under thirteen to engage in sexual activity*
- 16 An offence under section 8 of the Sexual Offences Act 2003 (c. 42) where it is alleged that an activity involving penetration within subsection (2)(a) to (d) of that section was caused.  
*Sexual activity with a person with a mental disorder impeding choice*
- 17 An offence under section 30 of the Sexual Offences Act 2003 where it is alleged that the touching involved penetration within subsection (3)(a) to (d) of that section.  
*Causing or inciting a person with a mental disorder impeding choice to engage in sexual activity*
- 18 An offence under section 31 of the Sexual Offences Act 2003 where it is alleged that an activity involving penetration within subsection (3)(a) to (d) of that section was caused.

*Drugs Offences*

*Unlawful importation of Class A drug*

- 19 An offence under section 50(2) of the Customs and Excise Management Act 1979 (c. 2) alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38)).

*Unlawful exportation of Class A drug*

- 20 An offence under section 68(2) of the Customs and Excise Management Act 1979 alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971).

*Fraudulent evasion in respect of Class A drug*

- 21 An offence under section 170(1) or (2) of the Customs and Excise Management Act 1979 alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971).

*Producing or being concerned in production of Class A drug*

- 22 An offence under section 4(2) of the Misuse of Drugs Act 1971 alleged to have been committed in relation to a Class A drug (as defined by section 2 of that Act).

*Supplying or offering to supply Class A drug*

- 23 An offence under section 4(3) of the Misuse of Drugs Act 1971 alleged to have been committed in relation to a Class A drug (as defined by section 2 of that Act).

*Theft Offences*

*Robbery*

- 24 An offence under section 8(1) of the Theft Act 1968 (c. 60) where it is alleged that, at some time during the commission of the offence, the defendant had in his

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possession a firearm or imitation firearm (as defined by section 57 of the Firearms Act 1968 (c. 27)).

### *Criminal Damage Offences*

#### *Arson endangering life*

25 An offence under section 1(2) of the Criminal Damage Act 1971 (c. 48) alleged to have been committed by destroying or damaging property by fire.

#### *Causing explosion likely to endanger life or property*

26 An offence under section 2 of the Explosive Substances Act 1883 (c. 3).

#### *Intent or conspiracy to cause explosion likely to endanger life or property*

27 An offence under section 3(1)(a) of the Explosive Substances Act 1883.

### *War Crimes and Terrorism*

#### *Genocide, crimes against humanity and war crimes*

28 An offence under section 51 or 52 of the International Criminal Court Act 2001 (c. 17).

#### *Grave breaches of the Geneva Conventions*

29 An offence under section 1 of the Geneva Conventions Act 1957 (c. 52).

#### *Directing terrorist organisation*

30 An offence under section 56 of the Terrorism Act 2000 (c. 11).

#### *Hostage-taking*

31 An offence under section 1 of the Taking of Hostages Act 1982 (c. 28).

### *Hijacking and Other Offences Relating to Aviation, Maritime and Rail Security*

#### *Hijacking of aircraft*

32 An offence under section 1 of the Aviation Security Act 1982 (c. 36).

#### *Destroying, damaging or endangering the safety of an aircraft*

33 An offence under section 2 of the Aviation Security Act 1982.

#### *<sup>F753</sup>Hijacking of spacecraft*

#### **Textual Amendments**

**F753** Sch. 4 paras. 33A, 33B inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), **Sch. 12 para. 24**; [S.I. 2021/817](#), reg. 2, **Sch. para. 117** (with [reg. 3](#))

33A An offence under paragraph 1 of Schedule 4 to the Space Industry Act 2018.

#### **Textual Amendments**

**F753** Sch. 4 paras. 33A, 33B inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), **Sch. 12 para. 24**; [S.I. 2021/817](#), reg. 2, **Sch. para. 117** (with [reg. 3](#))

#### *Destroying, damaging or endangering the safety of spacecraft*

33B An offence under paragraph 2 of Schedule 4 to the Space Industry Act 2018.]

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### Textual Amendments

**F753** Sch. 4 paras. 33A, 33B inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), [Sch. 12 para. 24](#); [S.I. 2021/817](#), reg. 2, [Sch. para. 117](#) (with [reg. 3](#))

#### *Hijacking of ships*

- 34 An offence under section 9 of the Aviation and Maritime Security Act 1990 (c. 31).  
*Seizing or exercising control of fixed platforms*
- 35 An offence under section 10 of the Aviation and Maritime Security Act 1990.  
*Destroying ships or fixed platforms or endangering their safety*
- 36 An offence under section 11 of the Aviation and Maritime Security Act 1990.  
*Hijacking of Channel Tunnel trains*
- 37 An offence under article 4 of the Channel Tunnel (Security) Order 1994 (S.I.1994/570).  
*Seizing or exercising control of the Channel Tunnel system*
- 38 An offence under article 5 of the Channel Tunnel (Security) Order 1994 (S.I.1994/570).

#### *Conspiracy*

#### *Conspiracy*

- 39 An offence under section 1 of the Criminal Law Act 1977 (c. 45) of conspiracy to commit an offence listed in this Part of this Schedule.

## PART 2

### SUPPLEMENTARY

- 40 A reference in Part 1 of this Schedule to an offence includes a reference to an offence of aiding, abetting, counselling or procuring the commission of the offence.
- 41 A reference in Part 1 of this Schedule to an enactment includes a reference to the enactment as enacted and as amended from time to time.

## SCHEDULE 5

Section 75

### QUALIFYING OFFENCES FOR PURPOSES OF PART 10

## PART 1

### LIST OF OFFENCES FOR ENGLAND AND WALES

#### *Offences Against the Person*

#### *Murder*

- 1 Murder.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
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**Commencement Information**

**I331** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Attempted murder*

2 An offence under section 1 of the Criminal Attempts Act 1981 (c. 47) of attempting to commit murder.

**Commencement Information**

**I331** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Soliciting murder*

3 An offence under section 4 of the Offences against the Person Act 1861 (c. 100).

**Commencement Information**

**I331** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Manslaughter*

4 Manslaughter.

**Commencement Information**

**I331** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*<sup>F754</sup>Corporate manslaughter*

**Textual Amendments**

**F754** Sch. 5 para. 4A and cross-heading inserted (6.4.2008) by [Corporate Manslaughter and Corporate Homicide Act 2007 \(c. 19\)](#), ss. 26, 27, **Sch. 2 para. 3(2)**; S.I. 2008/401, **art. 2**

4A An offence under section 1 of the Corporate Manslaughter and Corporate Homicide Act 2007.]

**Textual Amendments**

**F754** Sch. 5 para. 4A and cross-heading inserted (6.4.2008) by [Corporate Manslaughter and Corporate Homicide Act 2007 \(c. 19\)](#), ss. 26, 27, **Sch. 2 para. 3(2)**; S.I. 2008/401, **art. 2**

*Kidnapping*

5 Kidnapping.



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**Commencement Information**

**I331** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Sexual Offences*

*Rape*

6 An offence under section 1 of the Sexual Offences Act 1956 (c. 69) or section 1 of the Sexual Offences Act 2003 (c. 42).

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Attempted rape*

7 An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence under section 1 of the Sexual Offences Act 1956 or section 1 of the Sexual Offences Act 2003.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Intercourse with a girl under thirteen*

8 An offence under section 5 of the Sexual Offences Act 1956.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Incest by a man with a girl under thirteen*

9 An offence under section 10 of the Sexual Offences Act 1956 alleged to have been committed with a girl under thirteen.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Assault by penetration*

10 An offence under section 2 of the Sexual Offences Act 2003 (c. 42).

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**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Causing a person to engage in sexual activity without consent*

- 11 An offence under section 4 of the Sexual Offences Act 2003 where it is alleged that the activity caused involved penetration within subsection (4)(a) to (d) of that section.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Rape of a child under thirteen*

- 12 An offence under section 5 of the Sexual Offences Act 2003.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Attempted rape of a child under thirteen*

- 13 An offence under section 1 of the Criminal Attempts Act 1981 (c. 47) of attempting to commit an offence under section 5 of the Sexual Offences Act 2003.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Assault of a child under thirteen by penetration*

- 14 An offence under section 6 of the Sexual Offences Act 2003.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Causing a child under thirteen to engage in sexual activity*

- 15 An offence under section 8 of the Sexual Offences Act 2003 where it is alleged that an activity involving penetration within subsection (2)(a) to (d) of that section was caused.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Sexual activity with a person with a mental disorder impeding choice*

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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- 16 An offence under section 30 of the Sexual Offences Act 2003 where it is alleged that the touching involved penetration within subsection (3)(a) to (d) of that section.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Causing a person with a mental disorder impeding choice to engage in sexual activity*

- 17 An offence under section 31 of the Sexual Offences Act 2003 where it is alleged that an activity involving penetration within subsection (3)(a) to (d) of that section was caused.

**Commencement Information**

**I332** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Drugs Offences*

*Unlawful importation of Class A drug*

- 18 An offence under section 50(2) of the Customs and Excise Management Act 1979 (c. 2) alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38)).

**Commencement Information**

**I333** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Unlawful exportation of Class A drug*

- 19 An offence under section 68(2) of the Customs and Excise Management Act 1979 alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971).

**Commencement Information**

**I333** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Fraudulent evasion in respect of Class A drug*

- 20 An offence under section 170(1) or (2) of the Customs and Excise Management Act 1979 (c. 2) alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38)).

**Commencement Information**

**I333** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Producing or being concerned in production of Class A drug*

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- 21 An offence under section 4(2) of the Misuse of Drugs Act 1971 alleged to have been committed in relation to a Class A drug (as defined by section 2 of that Act).

**Commencement Information**

**I333** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 30](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Criminal Damage Offences*

*Arson endangering life*

- 22 An offence under section 1(2) of the Criminal Damage Act 1971 (c. 48) alleged to have been committed by destroying or damaging property by fire.

**Commencement Information**

**I334** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 30](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Causing explosion likely to endanger life or property*

- 23 An offence under section 2 of the Explosive Substances Act 1883 (c. 3).

**Commencement Information**

**I334** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 30](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Intent or conspiracy to cause explosion likely to endanger life or property*

- 24 An offence under section 3(1)(a) of the Explosive Substances Act 1883.

**Commencement Information**

**I334** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 30](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*War Crimes and Terrorism*

*Genocide, crimes against humanity and war crimes*

- 25 An offence under section 51 or 52 of the International Criminal Court Act 2001 (c. 17).

**Commencement Information**

**I335** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 30](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Grave breaches of the Geneva Conventions*

- 26 An offence under section 1 of the Geneva Conventions Act 1957 (c. 52).

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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**Commencement Information**

**I335** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Directing terrorist organisation*

27 An offence under section 56 of the Terrorism Act 2000 (c. 11).

**Commencement Information**

**I335** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Hostage-taking*

28 An offence under section 1 of the Taking of Hostages Act 1982 (c. 28).

**Commencement Information**

**I335** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

*Conspiracy*

*Conspiracy*

29 An offence under section 1 of the Criminal Law Act 1977 (c. 45) of conspiracy to commit an offence listed in this Part of this Schedule.

**Commencement Information**

**I336** Sch. 5 Pt. 1 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

**PART 2**

LIST OF OFFENCES FOR NORTHERN IRELAND

*Offences Against the Person*

*Murder*

30 Murder.

*Attempted murder*

31 An offence under Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 of attempting to commit murder.

*Soliciting murder*

32 An offence under section 4 of the Offences against the Person Act 1861 (c. 100).

*Manslaughter*

33 Manslaughter.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
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### <sup>F755</sup>Corporate manslaughter

#### Textual Amendments

**F755** Sch. 5 para. 33A and cross-heading inserted (6.4.2008) by [Corporate Manslaughter and Corporate Homicide Act 2007 \(c. 19\)](#), ss. 26, 27, **Sch. 2 para. 3(3)**; S.I. 2008/401, **art. 2**

33A An offence under section 1 of the Corporate Manslaughter and Corporate Homicide Act 2007.]

#### Textual Amendments

**F755** Sch. 5 para. 33A and cross-heading inserted (6.4.2008) by [Corporate Manslaughter and Corporate Homicide Act 2007 \(c. 19\)](#), ss. 26, 27, **Sch. 2 para. 3(3)**; S.I. 2008/401, **art. 2**

### Kidnapping

34 Kidnapping.

### Sexual Offences

#### Rape

35 Rape.

<sup>F756</sup>35A An offence under Article 5 of the Sexual Offences (Northern Ireland) Order 2008.]

#### Textual Amendments

**F756** Sch. 5 Pt. 2 para. 35A inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(2)**; S.R. 2008/510, **art. 2**

#### Attempted rape

36 An offence under section 2 of the Attempted Rape, etc., Act (Northern Ireland) 1960.

<sup>F757</sup>36A An offence under Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 of attempting to commit an offence under Article 5 of the Sexual Offences (Northern Ireland) Order 2008.]

#### Textual Amendments

**F757** Sch. 5 Pt. 2 para. 36A inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(3)**; S.R. 2008/510, **art. 2**

#### Intercourse with a girl under fourteen

37 An offence under section 4 of the Criminal Law Amendment Act 1885 (c. 69) of unlawfully and carnally knowing a girl under fourteen.

#### Incest by a man with a girl under fourteen

38 An offence under section 1(1) of the Punishment of Incest Act 1908 (c. 45) alleged to have been committed with a girl under fourteen.

### <sup>F758</sup>Assault by penetration

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**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

38A An offence under Article 6 of the Sexual Offences (Northern Ireland) Order 2008.

**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

*Causing a person to engage in sexual activity without consent*

38B An offence under Article 8 of the Sexual Offences (Northern Ireland) Order 2008 where it is alleged that the activity caused involved penetration within paragraph (4) (a) to (d) of that Article.

**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

*Rape of a child under thirteen*

38C An offence under Article 12 of the Sexual Offences (Northern Ireland) Order 2008.

**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

*Attempted rape of a child under thirteen*

38D An offence under Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 of attempting to commit an offence under Article 12 of the Sexual Offences (Northern Ireland) Order 2008.

**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

*Assault of child under thirteen by penetration*

38E An offence under Article 13 of the Sexual Offences (Northern Ireland) Order 2008.

**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

*Causing a child under thirteen to engage in sexual activity by penetration*



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- 38F An offence under Article 15 of the Sexual Offences (Northern Ireland) Order 2008 where it is alleged that an activity involving penetration within paragraph (2)(a) to (d) of that Article was caused.

**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

*Sexual activity with a person with a mental disorder impeding choice*

- 38G An offence under Article 43 of the Sexual Offences (Northern Ireland) Order 2008 where it is alleged that the touching involved penetration within paragraph (3)(a) to (d) of that Article.

**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

*Causing a person with a mental disorder impeding choice to engage in sexual activity*

- 38H An offence under Article 44 of the Sexual Offences (Northern Ireland) Order 2008 where it is alleged that an activity involving penetration within paragraph (3)(a) to (d) of that Article was caused.]

**Textual Amendments**

**F758** Sch. 5 Pt. 2 paras. 38A-38H inserted (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(3), 81, **Sch. 1 para. 31(4)**; S.R. 2008/510, **art. 2**

*Drugs Offences*

*Unlawful importation of Class A drug*

- 39 An offence under section 50(2) of the Customs and Excise Management Act 1979 (c. 2) alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38)).

*Unlawful exportation of Class A drug*

- 40 An offence under section 68(2) of the Customs and Excise Management Act 1979 alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971).

*Fraudulent evasion in respect of Class A drug*

- 41 An offence under section 170(1) or (2) of the Customs and Excise Management Act 1979 alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971).

*Producing or being concerned in production of Class A drug*

- 42 An offence under section 4(2) of the Misuse of Drugs Act 1971 alleged to have been committed in respect of a Class A drug (as defined by section 2 of that Act).

*Criminal Damage Offences*

*Arson endangering life*

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43 An offence under Article 3(2) of the Criminal Damage (Northern Ireland) Order 1977 alleged to have been committed by destroying or damaging property by fire.  
*Causing explosion likely to endanger life or property*

44 An offence under section 2 of the Explosive Substances Act 1883 (c. 3).  
*Intent or conspiracy to cause explosion likely to endanger life or property*

45 An offence under section 3(1)(a) of the Explosive Substances Act 1883.

#### *War Crimes and Terrorism*

##### *Genocide, crimes against humanity and war crimes*

46 An offence under section 51 or 52 of the International Criminal Court Act 2001 (c. 17).

##### *Grave breaches of the Geneva Conventions*

47 An offence under section 1 of the Geneva Conventions Act 1957 (c. 52).  
*Directing terrorist organisation*

48 An offence under section 56 of the Terrorism Act 2000 (c. 11).  
*Hostage-taking*

49 An offence under section 1 of the Taking of Hostages Act 1982 (c. 28).

#### *Conspiracy*

##### *Conspiracy*

50 An offence under Article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 of conspiracy to commit an offence listed in this Part of this Schedule.

### PART 3

#### SUPPLEMENTARY

51 A reference in this Schedule to an offence includes a reference to an offence of aiding, abetting, counselling or procuring the commission of the offence.

##### **Commencement Information**

**I337** Sch. 5 Pt. 3 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

52 A reference in this Schedule to an enactment includes a reference to the enactment as enacted and as amended from time to time.

##### **Commencement Information**

**I338** Sch. 5 Pt. 3 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 30 (subject to **art. 2(2)**, Sch. 2)

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## SCHEDULE 6

Section 113

## EVIDENCE OF BAD CHARACTER: ARMED FORCES

- 1 Sections 98 to 106, 109, 110 and 112, in so far as they are not applied in relation to proceedings before service courts by provision contained in or made under any other Act, have effect in relation to such proceedings (whether in the United Kingdom or elsewhere) as they have effect in relation to criminal proceedings.
- 2 Section 103, as it applies in relation to proceedings before service courts, has effect with the substitution in subsection (4)(a) of “charge sheet” for “written charge or indictment”.
- 3 (1) Section 107 has effect in relation to proceedings before [<sup>F759</sup>the Court Martial](whether in the United Kingdom or elsewhere) with the following modifications.
- (2) In subsection (1)—
- for [<sup>F760</sup>a judge and jury] substitute “ [<sup>F761</sup>the Court Martial] ”;
  - for “the court is satisfied” substitute “ the judge advocate is satisfied ”;
  - for the words after paragraph (b) substitute “ the judge advocate must either direct the court to acquit the defendant of the offence or, if he considers that there ought to be a retrial, [<sup>F762</sup>discharge] the court. ”
- (3) In subsection (2)—
- for “jury” substitute “ court ”;
  - for “the court is satisfied” substitute “ the judge advocate is satisfied ”.
- (4) In subsection (3)—
- for paragraph (a) substitute—
    - a court is required to determine under section 115B(2) of the Army Act 1955, [<sup>F763</sup>section 167 of the Armed Forces Act 2006] whether a person charged with an offence did the act or made the omission charged,”;
  - for “the court is satisfied” substitute “ the judge advocate is satisfied ”;
  - for the words after paragraph (c) substitute “the judge advocate must either direct the court to acquit the defendant of the offence or, if he considers that there ought to be a rehearing, the [<sup>F764</sup>discharge]court.”
- (5) For subsection (4) substitute—
- “(4) This section does not prejudice any other power a judge advocate may have to direct a court to acquit a person of an offence or to [<sup>F765</sup>discharge] a court.”

**Textual Amendments**

**F759** Words in Sch. 6 para. 3(1) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378(1), 383, **Sch. 16 para. 234(2)(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

**F760** Words in Sch. 6 para. 3(2)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378(1), 383, **Sch. 16 para. 234(2)(b)(i)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

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- F761** Words in Sch. 6 para. 3(2)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 234\(2\)\(b\)\(ii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F762** Word in Sch. 6 para. 3(2)(c) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 234\(2\)\(b\)\(iii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F763** Words in Sch. 6 para. 3(4)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 234\(2\)\(c\)\(i\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F764** Word in Sch. 6 para. 3(4)(c) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 234\(2\)\(c\)\(ii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F765** Word in Sch. 6 para. 3(5) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 234\(2\)\(d\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

4 Section 110, as it applies in relation to proceedings before service courts, has effect with the substitution of the following for subsection (1)—

“(1) Where the court makes a relevant ruling—

- (a) it must state in open court (but, in the case of a ruling by a judge advocate in proceedings before [<sup>F766</sup>the Court Martial], in the absence of the other members of the court) its reasons for the ruling;
- (b) if it is [<sup>F767</sup>the Summary Appeal Court or the Service Civilian Court], it must cause the ruling and the reasons for it to be entered in the note of the court’s proceedings.”

#### Textual Amendments

- F766** Words in Sch. 6 para. 4 substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 234\(3\)\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F767** Words in Sch. 6 para. 4 substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 234\(3\)\(b\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

5 Section 111 has effect as if [<sup>F768</sup>the expression]“rules of court” included rules regulating the practice and procedure of service courts.

#### Textual Amendments

- F768** Words in Sch. 6 para. 5 substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 3, [Sch. para. 52](#) (with art. 2(2))

[<sup>F769</sup>6 In this Schedule “service court” means—

- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Service Civilian Court; or
- (d) the Court Martial Appeal Court.]

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### Textual Amendments

**F769** Sch. 6 para. 6 substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 234\(4\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

## SCHEDULE 7

Section 135

### HEARSAY EVIDENCE: ARMED FORCES

#### *Application to proceedings before service courts*

- 1 Sections 114 to 121, 123, 124, 126, 127 to 129 and 133 and 134, in so far as they are not applied in relation to proceedings before service courts by provision contained in or made under any other Act, have effect in relation to such proceedings (whether in the United Kingdom or elsewhere) as they have effect in relation to criminal proceedings.

### Commencement Information

**I339** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 2 (1) In their application to such proceedings those sections have effect with the following modifications.

[<sup>F770</sup>(2) In section 116(2) for paragraph (c) substitute—

“(c) that either of the following applies—

- (i) the court is sitting neither in the United Kingdom nor in a British overseas territory and it is not reasonably practicable to secure the attendance of the relevant person; or
- (ii) the court is sitting in the United Kingdom or a British overseas territory but the relevant person is outside the United Kingdom or outside that territory (as the case may be) and it is not reasonably practicable to secure his attendance.”]

(3) In section 117 insert after subsection (7)—

“(8) In subsection (4) [<sup>F771</sup>the reference to criminal proceedings includes proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006.”]

(4) In section 123(4) for paragraph (a) substitute—

“(a) in the case of proceedings before [<sup>F772</sup>the Court Martial], proceedings held for the determination of the issue must take place before the judge advocate in the absence of the other members of the court.”.

[<sup>F773</sup>(5) In section 127—

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- (a) in subsection (1)(c)—
  - (i) for “the appropriate rules” substitute rules made under the Armed Forces Act 2006 or the Court Martial Appeals Act 1968;
  - (ii) for “section 9 of the Criminal Justice Act 1967 (c. 80)” substitute such rules;
- (b) omit subsection (7).]

[<sup>F774</sup>(6) Section 132 has effect as if the expression “rules of court” included rules regulating the practice and procedure of service courts.]

(7) In section 134 insert after subsection (1)—

“(1A) In this Part “criminal investigation” includes any investigation which may lead

- (a) to proceedings before a court-martial or Standing Civilian Court, or
- (b) to summary proceedings under section 76B of the Army Act 1955, section 76B of the Air Force Act 1955 or section 52D of the Naval Discipline Act 1957.

[<sup>F775</sup>to proceedings before an officer, the Court Martial or the Service Civilian Court in respect of a service offence within the meaning of the Armed Forces Act 2006.”]

#### Textual Amendments

- F770** Sch. 7 para. 2(2) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F771** Words in Sch. 7 para. 2(3) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(b\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F772** Words in Sch. 7 para. 2(4) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(c\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F773** Sch. 7 para. 2(5) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(d\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F774** Sch. 7 para. 2(6) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), [art. 3](#), [Sch. para. 53](#) (with [art. 2\(2\)](#))
- F775** Words in Sch. 7 para. 2(7) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) for Sch. 7 para. 2(7)(a)(b) by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(e\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

#### Modifications etc. (not altering text)

- C76** Sch. 7 para. 2 modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 53\(3\)\(4\)](#)

#### Commencement Information

- I340** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))



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- 3 (1) Section 122 has effect in relation to proceedings before [<sup>F776</sup>the Court Martial](whether in the United Kingdom or elsewhere) with the following modifications.
- (2) In subsection (1) for “ [<sup>F777</sup>a judge and jury]” substitute “ [<sup>F778</sup>the Court Martial] ”.
- (3) In subsection (2)—
- (a) for “jury when they retire to consider their” substitute “ court when it retires to consider its ”.
  - (b) for “the court” in paragraph (a) substitute “ the judge advocate ”;
  - (c) for “the jury” in paragraph (b) substitute “ the court ”.

#### Textual Amendments

- F776** Words in Sch 7 para. 3(1) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(3\)\(a\)](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F777** Words in Sch. 7 para. 3(2) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(3\)\(b\)\(i\)](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F778** Words in Sch. 7 para. 3(2) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(3\)\(b\)\(ii\)](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

#### Commencement Information

- I341** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 4 (1) Section 125 has effect in relation to proceedings before [<sup>F779</sup>the Court Martial](whether in the United Kingdom or elsewhere) with the following modifications.
- (2) In subsection (1)—
- (a) for “ [<sup>F780</sup>a judge and jury]” substitute “ [<sup>F781</sup>the Court Martial] ”;
  - (b) for “the court is satisfied” substitute “ the judge advocate is satisfied ”;
  - (c) for the words after paragraph (b) substitute “the judge advocate must either direct the court to acquit the defendant of the offence or, if he considers that there ought to be a retrial, the [<sup>F782</sup>discharge] court.”
- (3) In subsection (2)—
- (a) for “jury” substitute “ court ”;
  - (b) for “the court is satisfied” substitute “ the judge advocate is satisfied ”.
- (4) In subsection (3)—
- (a) for paragraph (a) substitute—
    - “(a) a court is required to determine under section 115B(2) of the Army Act 1955, [<sup>F783</sup>section 167 of the Armed Forces Act 2006] whether a person charged with an offence did the act or made the omission charged,”;
  - (b) for “the court is satisfied” substitute “ the judge advocate is satisfied ”;



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- (c) for the words after paragraph (b) substitute “ the judge advocate must either direct the court to acquit the defendant of the offence or, if he considers that there ought to be a rehearing, [<sup>F784</sup>discharge] the court. ”

(5) For subsection (4) substitute—

“(4) This section does not prejudice any other power a judge advocate may have to direct a court to acquit a person of an offence or to [<sup>F785</sup>discharge] a court.”

#### Textual Amendments

- F779** Words in Sch. 7 para. 4(1) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F780** Words in Sch. 7 para. 4(2)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(b\)\(i\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F781** Words in Sch. 7 para. 4(2)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(b\)\(ii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F782** Word in Sch. 7 para. 4(2)(c) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(b\)\(iii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F783** Words in Sch. 7 para. 4(4)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(c\)\(i\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F784** Word in Sch. 7 para. 4(4)(c) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(c\)\(ii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F785** Word in Sch. 7 para. 4(5) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(d\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

#### Commencement Information

- I342** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 31 (subject to [art. 2\(2\)](#), Sch. 2)

### Amendments

5 <sup>F786</sup> .....

#### Textual Amendments

- F786** Sch. 7 paras. 5-7 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Force Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 235\(5\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

#### Commencement Information

- I343** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 31 (subject to [art. 2\(2\)](#), Sch. 2)

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
**Changes to legislation:** *Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

6 F787  
 .....

**Textual Amendments**  
**F787** Sch. 7 paras. 5-7 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Force Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 235\(5\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**Commencement Information**  
**I344** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

7 F788  
 .....

**Textual Amendments**  
**F788** Sch. 7 paras. 5-7 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Force Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 235\(5\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**Commencement Information**  
**I345** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Interpretation*

[<sup>F789</sup>8 In this Schedule, and in any provision of this Part as applied by this Schedule, “service court” means—

- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Service Civilian Court; or
- (d) the Court Martial Appeal Court.]

**Textual Amendments**  
**F789** Sch. 7 para. 8 substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(6\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**Commencement Information**  
**I346** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

.....

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**Textual Amendments**

**F790** Sch. 8 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

**F791** SCHEDULE 9

Section 180

**Textual Amendments**

**F791** Sch. 9 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

**F792** SCHEDULE 10

**Textual Amendments**

**F792** Sch. 10 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 89(1)(b)**, 151(1); S.I. 2012/2906, art. 2(a)

PROSPECTIVE

SCHEDULE 11

TRANSFER OF CUSTODY PLUS ORDERS AND INTERMITTENT  
CUSTODY ORDERS TO SCOTLAND OR NORTHERN IRELAND

**F793**

**Textual Amendments**

**F793** Sch. 11 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 89(1)(b)**, 151(1); S.I. 2012/2906, art. 2(a)

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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F794 SCHEDULE 12

Section 193

**Textual Amendments**

**F794** Sch. 12 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

F795 SCHEDULE 13

Section 194

**Textual Amendments**

**F795** Sch. 13 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

F796 SCHEDULE 14

Section 219

PERSONS TO WHOM COPIES OF REQUIREMENTS TO BE PROVIDED IN PARTICULAR CASES

**Textual Amendments**

**F796** Sch. 14 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

SCHEDULE 15

[F799[F800Sections 244ZA and] 327(3)(a)]

SPECIFIED OFFENCES FOR PURPOSES OF [F797[F798SECTIONS 244ZA AND] 325]

**Textual Amendments**

- F797** Words in Sch. 15 heading substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 245(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F798** Words in Sch. 15 heading substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 130(8)(a)**, 208(5)(m)
- F799** Sch. 15 shoulder reference substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 245(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F800** Words in Sch. 15 shoulder reference substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 130(8)(b)**, 208(5)(m)

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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## PART 1

### SPECIFIED VIOLENT OFFENCES

#### 1 Manslaughter.

##### Commencement Information

**I347** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 2 Kidnapping.

##### Commencement Information

**I348** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 3 False imprisonment.

##### Commencement Information

**I349** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 4 An offence under section 4 of the Offences against the Person Act 1861 (c. 100) (soliciting murder).

##### Commencement Information

**I350** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 5 An offence under section 16 of that Act (threats to kill).

##### Commencement Information

**I351** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 6 An offence under section 18 of that Act (wounding with intent to cause grievous bodily harm).

##### Commencement Information

**I352** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 7 An offence under section 20 of that Act (malicious wounding).

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**Commencement Information**

**I353** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 8 An offence under section 21 of that Act (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence).

**Commencement Information**

**I354** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 9 An offence under section 22 of that Act (using chloroform etc. to commit or assist in the committing of any indictable offence).

**Commencement Information**

**I355** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 10 An offence under section 23 of that Act (maliciously administering poison etc. so as to endanger life or inflict grievous bodily harm).

**Commencement Information**

**I356** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 11 An offence under section 27 of that Act (abandoning children).

**Commencement Information**

**I357** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 12 An offence under section 28 of that Act (causing bodily injury by explosives).

**Commencement Information**

**I358** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 13 An offence under section 29 of that Act (using explosives etc. with intent to do grievous bodily harm).

**Commencement Information**

**I359** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

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- 14 An offence under section 30 of that Act (placing explosives with intent to do bodily injury).

**Commencement Information**

**I360** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 15 An offence under section 31 of that Act (setting spring guns etc. with intent to do grievous bodily harm).

**Commencement Information**

**I361** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 16 An offence under section 32 of that Act (endangering the safety of railway passengers).

**Commencement Information**

**I362** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 17 An offence under section 35 of that Act (injuring persons by furious driving).

**Commencement Information**

**I363** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 18 An offence under section 37 of that Act (assaulting officer preserving wreck).

**Commencement Information**

**I364** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 19 An offence under section 38 of that Act (assault with intent to resist arrest).

**Commencement Information**

**I365** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 20 An offence under section 47 of that Act (assault occasioning actual bodily harm).



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**Commencement Information**

**I366** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 21 An offence under section 2 of the Explosive Substances Act 1883 (c. 3) (causing explosion likely to endanger life or property).

**Commencement Information**

**I367** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 22 An offence under section 3 of that Act (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property).

**Commencement Information**

**I368** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- [<sup>F801</sup>22A An offence under section 4 of that Act (making or possession of explosive under suspicious circumstances).]

**Textual Amendments**

**F801** Sch. 15 para. 22A inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 2\(2\)](#), [95\(1\)](#) (with [s. 2\(8\)\(10\)](#)); [S.I. 2015/778, art. 3](#), [Sch. 1 para. 2](#)

- 23 An offence under section 1 of the Infant Life (Preservation) Act 1929 (c. 34) (child destruction).

**Commencement Information**

**I369** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 24 An offence under section 1 of the Children and Young Persons Act 1933 (c. 12) (cruelty to children).

**Commencement Information**

**I370** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 25 An offence under section 1 of the Infanticide Act 1938 (c. 36) (infanticide).

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**Commencement Information**

**I371** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

26 An offence under section 16 of the Firearms Act 1968 (c. 27) (possession of firearm with intent to endanger life).

**Commencement Information**

**I372** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

27 An offence under section 16A of that Act (possession of firearm with intent to cause fear of violence).

**Commencement Information**

**I373** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

28 An offence under section 17(1) of that Act (use of firearm to resist arrest).

**Commencement Information**

**I374** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

29 An offence under section 17(2) of that Act (possession of firearm at time of committing or being arrested for offence specified in Schedule 1 to that Act).

**Commencement Information**

**I375** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

30 An offence under section 18 of that Act (carrying a firearm with criminal intent).

**Commencement Information**

**I376** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

31 An offence under section 8 of the Theft Act 1968 (c. 60) (robbery or assault with intent to rob).

**Commencement Information**

**I377** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

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- 32 An offence under section 9 of that Act of burglary with intent to—
- (a) inflict grievous bodily harm on a person, or
  - (b) do unlawful damage to a building or anything in it.

**Commencement Information**

**I378** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 33 An offence under section 10 of that Act (aggravated burglary).

**Commencement Information**

**I379** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 34 An offence under section 12A of that Act (aggravated vehicle-taking) involving an accident which caused the death of any person.

**Commencement Information**

**I380** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 35 An offence of arson under section 1 of the Criminal Damage Act 1971 (c. 48).

**Commencement Information**

**I381** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 36 An offence under section 1(2) of that Act (destroying or damaging property) other than an offence of arson.

**Commencement Information**

**I382** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 37 An offence under section 1 of the Taking of Hostages Act 1982 (c. 28) (hostage-taking).

**Commencement Information**

**I383** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 38 An offence under section 1 of the Aviation Security Act 1982 (c. 36) (hijacking).

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**Commencement Information**

**I384** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

39 An offence under section 2 of that Act (destroying, damaging or endangering safety of aircraft).

**Commencement Information**

**I385** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

40 An offence under section 3 of that Act (other acts endangering or likely to endanger safety of aircraft).

**Commencement Information**

**I386** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

41 An offence under section 4 of that Act (offences in relation to certain dangerous articles).

**Commencement Information**

**I387** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

42 An offence under section 127 of the Mental Health Act 1983 (c. 20) (ill-treatment of patients).

**Commencement Information**

**I388** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

43 An offence under section 1 of the Prohibition of Female Circumcision Act 1985 (c. 38) (prohibition of female circumcision).

**Commencement Information**

**I389** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

44 An offence under section 1 of the Public Order Act 1986 (c. 64) (riot).

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**Commencement Information**

**I390** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

45 An offence under section 2 of that Act (violent disorder).

**Commencement Information**

**I391** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

46 An offence under section 3 of that Act (affray).

**Commencement Information**

**I392** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

47 An offence under section 134 of the Criminal Justice Act 1988 (c. 33) (torture).

**Commencement Information**

**I393** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

48 An offence under section 1 of the Road Traffic Act 1988 (c. 52) (causing death by dangerous driving).

**Commencement Information**

**I394** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

[<sup>F802</sup>48A An offence under section 3ZC of that Act (causing death by driving: disqualified drivers).]

**Textual Amendments**

**F802** Sch. 15 para. 48A inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\), Sch. 6 para. 11](#) (with [s. 29\(5\)](#)); [S.I. 2015/778, art. 3, Sch. 1 para. 75](#)

49 An offence under section 3A of that Act (causing death by careless driving when under influence of drink or drugs).

**Commencement Information**

**I395** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

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- 50 An offence under section 1 of the Aviation and Maritime Security Act 1990 (c. 31) (endangering safety at aerodromes).

**Commencement Information**

**I396** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 51 An offence under section 9 of that Act (hijacking of ships).

**Commencement Information**

**I397** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 52 An offence under section 10 of that Act (seizing or exercising control of fixed platforms).

**Commencement Information**

**I398** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 53 An offence under section 11 of that Act (destroying fixed platforms or endangering their safety).

**Commencement Information**

**I399** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 54 An offence under section 12 of that Act (other acts endangering or likely to endanger safe navigation).

**Commencement Information**

**I400** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 55 An offence under section 13 of that Act (offences involving threats).

**Commencement Information**

**I401** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 56 An offence under Part II of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).

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**Commencement Information**

**I402** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

57 An offence under section 4 [<sup>F803</sup>or 4A] of the Protection from Harassment Act 1997 (c. 40) (putting people in fear of violence [<sup>F804</sup>and stalking involving fear of violence or serious alarm or distress]).

**Textual Amendments**

**F803** Words in Sch. 15 para. 57 inserted (25.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 147(a)**; S.I. 2012/2075, art. 5(d)

**F804** Words in Sch. 15 para. 57 inserted (25.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 147(b)**; S.I. 2012/2075, art. 5(d)

**Commencement Information**

**I403** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

58 An offence under section 29 of the Crime and Disorder Act 1998 (c. 37) (racially or religiously aggravated assaults).

**Commencement Information**

**I404** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

59 An offence falling within section 31(1)(a) or (b) of that Act (racially or religiously aggravated offences under section 4 or 4A of the Public Order Act 1986 (c. 64)).

**Commencement Information**

**I405** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

<sup>F805</sup>59A .....

**Textual Amendments**

**F805** Sch. 15 para. 59A omitted (12.4.2019) by virtue of Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), **Sch. 4 para. 9(2)(a)** (with s. 25(3)(4))

<sup>F806</sup>59B .....

**Textual Amendments**

**F806** Sch. 15 para. 59B omitted (12.4.2019) by virtue of Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), **Sch. 4 para. 9(2)(b)** (with s. 25(3)(4))



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F807 59C .....

**Textual Amendments**

F807 Sch. 15 para. 59C omitted (12.4.2019) by virtue of Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), Sch. 4 para. 9(2)(c) (with s. 25(3)(4))

F808 59D .....

**Textual Amendments**

F808 Sch. 15 para. 59D omitted (12.4.2019) by virtue of Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), Sch. 4 para. 9(2)(d) (with s. 25(3)(4))

60 An offence under section 51 or 52 of the International Criminal Court Act 2001 (c. 17) (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.

**Commencement Information**

I406 Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 37 (subject to art. 2(2), Sch. 2)

[<sup>F809</sup>60A An offence under section 47 of the Anti-Terrorism, Crime and Security Act 2001 (use etc of nuclear weapons).

**Textual Amendments**

F809 Sch. 15 paras. 60A, 60B inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 147(1)(a), 208(5)(p)

60B An offence under section 50 of that Act (assisting or inducing certain weapons-related acts overseas).]

**Textual Amendments**

F809 Sch. 15 paras. 60A, 60B inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 147(1)(a), 208(5)(p)

F810 60A .....

**Textual Amendments**

F810 Sch. 15 para. 60A omitted (12.4.2019) by virtue of Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(3), Sch. 4 para. 9(2)(e) (with s. 25(3)(4))

F811 60B .....

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**Textual Amendments**

**F811** Sch. 15 para. 60B omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(3), [Sch. 4 para. 9\(2\)\(f\)](#) (with s. 25(3)(4))

<sup>F812</sup>60C .....

**Textual Amendments**

**F812** Sch. 15 para. 60C omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(3), [Sch. 4 para. 9\(2\)\(g\)](#) (with s. 25(3)(4))

61 An offence under section 1 of the Female Genital Mutilation Act 2003 (c. 31) (female genital mutilation).

**Commencement Information**

**I407** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

62 An offence under section 2 of that Act (assisting a girl to mutilate her own genitalia).

**Commencement Information**

**I408** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

63 An offence under section 3 of that Act (assisting a non-UK person to mutilate overseas a girl's genitalia).

**Commencement Information**

**I409** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

[<sup>F813</sup>63A An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing [<sup>F814</sup>a child or vulnerable adult to die or suffer serious physical harm].)]

**Textual Amendments**

**F813** Sch. 15 para. 63A inserted (21.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, [Sch. 10 para. 65](#); [S.I. 2005/579, art. 2\(b\)\(c\)](#)

**F814** Words in Sch. 15 para. 63A substituted (2.7.2012) by [Domestic Violence, Crime and Victims \(Amendment\) Act 2012 \(c. 4\)](#), s. 4(2), [Sch. para. 6](#); [S.I. 2012/1432, art. 2](#)

<sup>F815</sup>63B .....

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
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**Textual Amendments**

**F815** Sch. 15 para. 63B omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019](#) (c. 3), s. 27(3), **Sch. 4 para. 9(2)(h)** (with s. 25(3)(4))

<sup>F816</sup>63C .....

**Textual Amendments**

**F816** Sch. 15 para. 63C omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019](#) (c. 3), s. 27(3), **Sch. 4 para. 9(2)(i)** (with s. 25(3)(4))

<sup>F817</sup>63D .....

**Textual Amendments**

**F817** Sch. 15 para. 63D omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019](#) (c. 3), s. 27(3), **Sch. 4 para. 9(2)(j)** (with s. 25(3)(4))

<sup>F818</sup>63E .....

**Textual Amendments**

**F818** Sch. 15 para. 63E omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019](#) (c. 3), s. 27(3), **Sch. 4 para. 9(2)(k)** (with s. 25(3)(4))

<sup>F819</sup>63F .....

**Textual Amendments**

**F819** Sch. 15 para. 63F omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019](#) (c. 3), s. 27(3), **Sch. 4 para. 9(2)(l)** (with s. 25(3)(4))

[<sup>F820</sup>63FA An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).]

**Textual Amendments**

**F820** Sch. 15 para. 63FA inserted (7.6.2022) by [Domestic Abuse Act 2021](#) (c. 17), s. 90(6), **Sch. 2 para. 7**; S.I. 2022/553, regs. 1(2), 3(b)

[<sup>F821</sup>63G An offence under section 1 of the Modern Slavery Act 2015 (slavery, servitude and forced or compulsory labour).]

**Textual Amendments**

**F821** Sch. 15 paras. 63G, 63H inserted (31.7.2015) by [Modern Slavery Act 2015](#) (c. 30), **ss. 6(2)**, 61(1); S.I. 2015/1476, reg. 2(a)

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63H An offence under section 2 of that Act (human trafficking) which is not within Part 2 of this Schedule.]

**Textual Amendments**

**F821** Sch. 15 paras. 63G, 63H inserted (31.7.2015) by [Modern Slavery Act 2015 \(c. 30\)](#), **ss. 6(2), 61(1)**; S.I. 2015/1476, reg. 2(a)

[<sup>F822</sup>63I An offence under paragraph 1 of Schedule 4 to the Space Industry Act 2018 (hijacking of spacecraft).

**Textual Amendments**

**F822** Sch. 15 paras. 63I-63M inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), **Sch. 12 para. 25**; S.I. 2021/817, reg. 2, Sch. para. 117 (with reg. 3)

63J An offence under paragraph 2 of that Schedule (destroying, damaging or endangering the safety of spacecraft).

**Textual Amendments**

**F822** Sch. 15 paras. 63I-63M inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), **Sch. 12 para. 25**; S.I. 2021/817, reg. 2, Sch. para. 117 (with reg. 3)

63K An offence under paragraph 3 of that Schedule (other acts endangering or likely to endanger safety of spacecraft).

**Textual Amendments**

**F822** Sch. 15 paras. 63I-63M inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), **Sch. 12 para. 25**; S.I. 2021/817, reg. 2, Sch. para. 117 (with reg. 3)

63L An offence under paragraph 4 of that Schedule (endangering safety at spaceports).

**Textual Amendments**

**F822** Sch. 15 paras. 63I-63M inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), **Sch. 12 para. 25**; S.I. 2021/817, reg. 2, Sch. para. 117 (with reg. 3)

63M An offence under paragraph 5 of that Schedule (offences in relation to certain dangerous articles).]

**Textual Amendments**

**F822** Sch. 15 paras. 63I-63M inserted (29.7.2021) by [Space Industry Act 2018 \(c. 5\)](#), s. 70(1), **Sch. 12 para. 25**; S.I. 2021/817, reg. 2, Sch. para. 117 (with reg. 3)

[<sup>F823</sup>64(1) Aiding, abetting, counselling or procuring the commission of an offence specified in the preceding paragraphs of this Part of this Schedule.

(2) An attempt to commit such an offence.

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- (3) Conspiracy to commit such an offence.
- (4) Incitement to commit such an offence.
- (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in the preceding paragraphs of this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.]

#### Textual Amendments

**F823** Sch. 15 para. 64 substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 2(3)**, 95(1) (with s. 2(8)); [S.I. 2015/778](#), art. 3, Sch. 1 para. 2

[<sup>F824</sup>65(1) An attempt to commit murder.

- (2) Conspiracy to commit murder.
- (3) Incitement to commit murder.
- (4) An offence under Part 2 of the Serious Crime Act 2007 in relation to which murder is the offence (or one of the offences) which the person intended or believed would be committed.]

#### Textual Amendments

**F824** Sch. 15 para. 65 substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 2(4)**, 95(1) (with s. 2(8)(10)); [S.I. 2015/778](#), art. 3, Sch. 1 para. 2

#### Commencement Information

**I410** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, Sch. 1 para. 37 (subject to art. 2(2), Sch. 2)

## PART 2

### SPECIFIED SEXUAL OFFENCES

66 An offence under section 1 of the Sexual Offences Act 1956 (c. 69) (rape).

#### Commencement Information

**I411** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, Sch. 1 para. 37 (subject to art. 2(2), Sch. 2)

67 An offence under section 2 of that Act (procurement of woman by threats).

#### Commencement Information

**I412** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, Sch. 1 para. 37 (subject to art. 2(2), Sch. 2)

68 An offence under section 3 of that Act (procurement of woman by false pretences).

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**Commencement Information**

**I413** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

69 An offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse).

**Commencement Information**

**I414** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

70 An offence under section 5 of that Act (intercourse with girl under thirteen).

**Commencement Information**

**I415** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

71 An offence under section 6 of that Act (intercourse with girl under 16).

**Commencement Information**

**I416** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

72 An offence under section 7 of that Act (intercourse with a defective).

**Commencement Information**

**I417** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

73 An offence under section 9 of that Act (procurement of a defective).

**Commencement Information**

**I418** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

74 An offence under section 10 of that Act (incest by a man).

**Commencement Information**

**I419** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

75 An offence under section 11 of that Act (incest by a woman).

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**Commencement Information**

**I420** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

76 An offence under section 14 of that Act (indecent assault on a woman).

**Commencement Information**

**I421** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

77 An offence under section 15 of that Act (indecent assault on a man).

**Commencement Information**

**I422** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

78 An offence under section 16 of that Act (assault with intent to commit buggery).

**Commencement Information**

**I423** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

79 An offence under section 17 of that Act (abduction of woman by force or for the sake of her property).

**Commencement Information**

**I424** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

80 An offence under section 19 of that Act (abduction of unmarried girl under eighteen from parent or guardian).

**Commencement Information**

**I425** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

81 An offence under section 20 of that Act (abduction of unmarried girl under sixteen from parent or guardian).

**Commencement Information**

**I426** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))



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82 An offence under section 21 of that Act (abduction of defective from parent or guardian).

**Commencement Information**

**I427** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

83 An offence under section 22 of that Act (causing prostitution of women).

**Commencement Information**

**I428** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

84 An offence under section 23 of that Act (procurement of girl under twenty-one).

**Commencement Information**

**I429** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

85 An offence under section 24 of that Act (detention of woman in brothel).

**Commencement Information**

**I430** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

86 An offence under section 25 of that Act (permitting girl under thirteen to use premises for intercourse).

**Commencement Information**

**I431** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

87 An offence under section 26 of that Act (permitting girl under sixteen to use premises for intercourse).

**Commencement Information**

**I432** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

88 An offence under section 27 of that Act (permitting defective to use premises for intercourse).

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**Commencement Information**

**I433** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

89 An offence under section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under sixteen).

**Commencement Information**

**I434** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

90 An offence under section 29 of that Act (causing or encouraging prostitution of defective).

**Commencement Information**

**I435** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

91 An offence under section 32 of that Act (soliciting by men).

**Commencement Information**

**I436** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

<sup>F825</sup>92 . . . . .

**Textual Amendments**

**F825** Sch. 15 para. 92 omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 2(5)**, 95(1) (with s. 2(8)); S.I. 2015/778, **art. 3**, Sch. 1 para. 2

[<sup>F826</sup>92A An offence under section 33A of that Act (keeping a brothel used for prostitution).]

**Textual Amendments**

**F826** Sch. 15 para. 92A inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 2(6)**, 95(1) (with s. 2(8)); S.I. 2015/778, **art. 3**, Sch. 1 para. 2

93 An offence under section 128 of the Mental Health Act 1959 (c. 72) (sexual intercourse with patients).

**Commencement Information**

**I437** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

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- 94 An offence under section 1 of the Indecency with Children Act 1960 (c. 33) (indecent conduct towards young child).

**Commencement Information**

**I438** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 95 An offence under section 4 of the Sexual Offences Act 1967 (c. 60) (procuring others to commit homosexual acts).

**Commencement Information**

**I439** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 96 An offence under section 5 of that Act (living on earnings of male prostitution).

**Commencement Information**

**I440** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 97 An offence under section 9 of the Theft Act 1968 (c. 60) of burglary with intent to commit rape.

**Commencement Information**

**I441** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 98 An offence under section 54 of the Criminal Law Act 1977 (c. 45) (inciting girl under sixteen to have incestuous sexual intercourse).

**Commencement Information**

**I442** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 99 An offence under section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children).

**Commencement Information**

**I443** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

- 100 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles).

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**Commencement Information**

**I444** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

101 An offence under section 160 of the Criminal Justice Act 1988 (c. 33) (possession of indecent photograph of a child).

**Commencement Information**

**I445** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

102 An offence under section 1 of the Sexual Offences Act 2003 (c. 42) (rape).

**Commencement Information**

**I446** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

103 An offence under section 2 of that Act (assault by penetration).

**Commencement Information**

**I447** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

104 An offence under section 3 of that Act (sexual assault).

**Commencement Information**

**I448** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

105 An offence under section 4 of that Act (causing a person to engage in sexual activity without consent).

**Commencement Information**

**I449** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

106 An offence under section 5 of that Act (rape of a child under 13).

**Commencement Information**

**I450** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

107 An offence under section 6 of that Act (assault of a child under 13 by penetration).

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**Commencement Information**

**I451** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

108 An offence under section 7 of that Act (sexual assault of a child under 13).

**Commencement Information**

**I452** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

109 An offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity).

**Commencement Information**

**I453** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

110 An offence under section 9 of that Act (sexual activity with a child).

**Commencement Information**

**I454** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

111 An offence under section 10 of that Act (causing or inciting a child to engage in sexual activity).

**Commencement Information**

**I455** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

112 An offence under section 11 of that Act (engaging in sexual activity in the presence of a child).

**Commencement Information**

**I456** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

113 An offence under section 12 of that Act (causing a child to watch a sexual act).

**Commencement Information**

**I457** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 37](#) (subject to [art. 2\(2\), Sch. 2](#))

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- 114 An offence under section 13 of that Act (child sex offences committed by children or young persons).

**Commencement Information**

**I458** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

- 115 An offence under section 14 of that Act (arranging or facilitating commission of a child sex offence).

**Commencement Information**

**I459** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

- 116 An offence under section 15 of that Act (meeting a child following sexual grooming etc.).

**Commencement Information**

**I460** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

- [<sup>F827</sup>116A An offence under section 15A of that Act (sexual communication with a child).]

**Textual Amendments**

**F827** Sch. 15 para. 116A inserted (3.4.2017) by Serious Crime Act 2015 (c. 9), s. 88(1), **Sch. 4 para. 68(2)**; S.I. 2017/511, reg. 2(b)(iii)

- 117 An offence under section 16 of that Act (abuse of position of trust: sexual activity with a child).

**Commencement Information**

**I461** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

- 118 An offence under section 17 of that Act (abuse of position of trust: causing or inciting a child to engage in sexual activity).

**Commencement Information**

**I462** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

- 119 An offence under section 18 of that Act (abuse of position of trust: sexual activity in the presence of a child).

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**Commencement Information**

**I463** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

120 An offence under section 19 of that Act (abuse of position of trust: causing a child to watch a sexual act).

**Commencement Information**

**I464** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

121 An offence under section 25 of that Act (sexual activity with a child family member).

**Commencement Information**

**I465** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

122 An offence under section 26 of that Act (inciting a child family member to engage in sexual activity).

**Commencement Information**

**I466** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

123 An offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice).

**Commencement Information**

**I467** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

124 An offence under section 31 of that Act (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity).

**Commencement Information**

**I468** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

125 An offence under section 32 of that Act (engaging in sexual activity in the presence of a person with a mental disorder impeding choice).



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**Commencement Information**

**I469** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

126 An offence under section 33 of that Act (causing a person with a mental disorder impeding choice to watch a sexual act).

**Commencement Information**

**I470** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

127 An offence under section 34 of that Act (inducement, threat or deception to procure sexual activity with a person with a mental disorder).

**Commencement Information**

**I471** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

128 An offence under section 35 of that Act (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception).

**Commencement Information**

**I472** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

129 An offence under section 36 of that Act (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder).

**Commencement Information**

**I473** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

130 An offence under section 37 of that Act (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception).

**Commencement Information**

**I474** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

131 An offence under section 38 of that Act (care workers: sexual activity with a person with a mental disorder).

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**Commencement Information**

**I475** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

132 An offence under section 39 of that Act (care workers: causing or inciting sexual activity).

**Commencement Information**

**I476** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

133 An offence under section 40 of that Act (care workers: sexual activity in the presence of a person with a mental disorder).

**Commencement Information**

**I477** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

134 An offence under section 41 of that Act (care workers: causing a person with a mental disorder to watch a sexual act).

**Commencement Information**

**I478** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

135 An offence under section 47 of that Act (paying for sexual services of a child).

**Commencement Information**

**I479** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

136 An offence under section 48 of that Act (causing or inciting [<sup>F828</sup>sexual exploitation of a child] ).

**Textual Amendments**

**F828** Words in Sch. 15 para. 136 substituted (3.5.2015) by Serious Crime Act 2015 (c. 9), s. 88(1), **Sch. 4 para. 68(3)**; S.I. 2015/820, reg. 2(r)(ix)

**Commencement Information**

**I480** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

137 An offence under section 49 of that Act (controlling a child [<sup>F829</sup>in relation to sexual exploitation] ).

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**Textual Amendments**

**F829** Words in Sch. 15 para. 137 substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 68\(4\)](#); [S.I. 2015/820](#), reg. 2(r)(ix)

**Commencement Information**

**I481** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

138 An offence under section 50 of that Act (arranging or facilitating [<sup>F830</sup>sexual exploitation of a child] ).

**Textual Amendments**

**F830** Words in Sch. 15 para. 138 substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 68\(5\)](#); [S.I. 2015/820](#), reg. 2(r)(ix)

**Commencement Information**

**I482** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

139 An offence under section 52 of that Act (causing or inciting prostitution for gain).

**Commencement Information**

**I483** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

140 An offence under section 53 of that Act (controlling prostitution for gain).

**Commencement Information**

**I484** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

141 An offence under section 57 of that Act (trafficking into the UK for sexual exploitation).

**Commencement Information**

**I485** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

142 An offence under section 58 of that Act (trafficking within the UK for sexual exploitation).

**Commencement Information**

**I486** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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- 143 An offence under section 59 of that Act (trafficking out of the UK for sexual exploitation).

**Commencement Information**

**I487** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- [<sup>F831</sup>143A An offence under section 59A of that Act (trafficking for sexual exploitation).]

**Textual Amendments**

**F831** Sch. 15 para. 143A inserted (6.4.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 139](#) (with s. 97); [S.I. 2013/470, art. 2\(d\)](#) (with arts. 5-8)

- 144 An offence under section 61 of that Act (administering a substance with intent).

**Commencement Information**

**I488** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 145 An offence under section 62 of that Act (committing an offence with intent to commit a sexual offence).

**Commencement Information**

**I489** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 146 An offence under section 63 of that Act (trespass with intent to commit a sexual offence).

**Commencement Information**

**I490** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 147 An offence under section 64 of that Act (sex with an adult relative: penetration).

**Commencement Information**

**I491** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 148 An offence under section 65 of that Act (sex with an adult relative: consenting to penetration).

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*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I492** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

149 An offence under section 66 of that Act (exposure).

**Commencement Information**

**I493** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

[<sup>F832</sup>149A An offence under section 66A of that Act (sending etc photograph or film of genitals).

**Textual Amendments**

**F832** Sch. 15 paras. 149A, 149B inserted (31.1.2024) by Online Safety Act 2023 (c. 50), s. 240(1), **Sch. 14 para. 17(2)**; S.I. 2024/31, **reg. 2**

149B An offence under section 66B(2) or (3) of that Act (sharing intimate photograph or film with intent to cause alarm, distress or humiliation or for purpose of obtaining sexual gratification).]

**Textual Amendments**

**F832** Sch. 15 paras. 149A, 149B inserted (31.1.2024) by Online Safety Act 2023 (c. 50), s. 240(1), **Sch. 14 para. 17(2)**; S.I. 2024/31, **reg. 2**

150 An offence under section 67 of that Act (voyeurism).

**Commencement Information**

**I494** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

151 An offence under section 69 of that Act (intercourse with an animal).

**Commencement Information**

**I495** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

152 An offence under section 70 of that Act (sexual penetration of a corpse).

**Commencement Information**

**I496** Sch. 15 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 37 (subject to **art. 2(2)**, Sch. 2)

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[<sup>F833</sup>152A An offence under section 2 of the Modern Slavery Act 2015 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation).]

**Textual Amendments**

**F833** Sch. 15 para. 152A inserted (31.7.2015) by [Modern Slavery Act 2015 \(c. 30\)](#), **ss. 6(3), 61(1)**; [S.I. 2015/1476](#), **reg. 2(a)**

[<sup>F834</sup>153(1) Aiding, abetting, counselling or procuring the commission of an offence specified in this Part of this Schedule.

- (2) An attempt to commit such an offence.
- (3) Conspiracy to commit such an offence.
- (4) Incitement to commit such an offence.
- (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.]

**Textual Amendments**

**F834** Sch. 15 para. 153 substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 2(7), 95(1)** (with [s. 2\(8\)](#)); [S.I. 2015/778](#), **art. 3**, [Sch. 1 para. 2](#)

**Commencement Information**

**I497** Sch. 15 wholly in force at 4.4.2005, see [s. 336\(3\)](#) and [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 37](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

[<sup>F835</sup>**PART 3**

SPECIFIED TERRORISM OFFENCES

**Textual Amendments**

**F835** Sch. 15 Pt. 3 inserted (12.4.2019) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), **ss. 9(5), 27(3)** (with [s. 25\(3\)\(4\)](#))

154 An offence under section 11 of the Terrorism Act 2000 (membership of a proscribed organisation).

155 An offence under section 12 of that Act (inviting support for a proscribed organisation).

156 An offence under section 54 of that Act (weapons training).

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- 157 An offence under section 56 of that Act (directing a terrorist organisation).
- 158 An offence under section 57 of that Act (possession of article for terrorist purposes).
- 159 An offence under section 58 of that Act (collection of information likely to be of use to a terrorist).
- 160 An offence under section 58A of that Act (publishing information about members of the armed forces etc).
- 161 An offence under section 58B of that Act (entering or remaining in a designated area).
- 162 An offence under section 59 of that Act (inciting terrorism overseas).

<sup>F836</sup>163 .....

**Textual Amendments**  
**F836** Sch. 15 para. 163 omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 147(1)(b), 208(5)(p)

<sup>F837</sup>164 .....

**Textual Amendments**  
**F837** Sch. 15 para. 164 omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 147(1)(b), 208(5)(p)

- 165 An offence under section 113 of [<sup>F838</sup>the Anti-Terrorism, Crime and Security Act 2001] (use of noxious substance or thing to cause harm or intimidate).

**Textual Amendments**  
**F838** Words in Sch. 15 para. 165 substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 147(1)(c), 208(5)(p)

- 166 An offence under section 1 of the Terrorism Act 2006 (encouragement of terrorism).
- 167 An offence under section 2 of that Act (dissemination of terrorist publications).



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- 168 An offence under section 5 of that Act (preparation of terrorist acts).
- 169 An offence under section 6 of that Act (training for terrorism).
- 170 An offence under section 8 of that Act (attendance at a place used for terrorist training).
- 171 An offence under section 9 of that Act (making or possession of radioactive device or material).
- 172 An offence under section 10 of that Act (misuse of radioactive device or material for terrorist purposes etc).
- 173 An offence under section 11 of that Act (terrorist threats relating to radioactive devices etc).
- 174 (1) Aiding, abetting, counselling or procuring the commission of an offence specified in the preceding paragraphs of this Part of this Schedule.
- (2) An attempt to commit such an offence.
- (3) Conspiracy to commit such an offence.
- (4) Incitement to commit such an offence.
- (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in the preceding paragraphs of this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.]

#### F839 SCHEDULE 15A

#### Textual Amendments

**F839** Sch. 15A omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 21 para. 31](#); S.I. 2012/2906, art. 2(s)

#### F840 SCHEDULE 15B

[F842Section 246A]

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

- F840** Sch. 15B 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
- F841** Words in Sch. 15B heading substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 246(3)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F842** Sch. 15B section reference substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 246(2)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2

F845F845 SCHEDULE 16

**Textual Amendments**

- F845** Sch. 16 repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 17(5), 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 paras. 8, 50(2)(c) (subject to art. 2(3), Sch. 2)

F846F846 SCHEDULE 17

**Textual Amendments**

- F846** Sch. 17 repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 17(5), 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 paras. 8, 50(2)(c) (subject to art. 2(3), Sch. 2)

SCHEDULE 18

Section 230

RELEASE OF PRISONERS SERVING SENTENCES OF  
IMPRISONMENT OR DETENTION FOR PUBLIC PROTECTION

*Release on licence*

- 1 (1) Section 31 of the Crime (Sentences) Act 1997 (c. 43) (duration and conditions of licences for life prisoners), is amended as follows.
- (2) In subsection (1) (licence to remain in force until death), after “life prisoner” there is inserted “, other than a prisoner to whom section 31A below applies/text”.
- (3) After that subsection there is inserted—
- “(1A) Where a prisoner to whom section 31A below applies is released on licence, the licence shall remain in force until his death unless—

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- (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.”

#### **Commencement Information**

**I630** Sch. 18 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 40 (subject to art. 2(2), Sch. 2)

2 After that section there is inserted—

#### **“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;

“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.”

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**Commencement Information**

**I631** Sch. 18 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 40](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 3 In section 34(2) of that Act (meaning of “life sentence”), after paragraph (c) there is inserted—
- “(d) a sentence of imprisonment for public protection under section 225 of the Criminal Justice Act 2003, and
  - (e) a sentence of detention for public protection under section 226 of that Act.”

**Commencement Information**

**I632** Sch. 18 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 40](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Determination of tariffs*

**F854** .....

**Textual Amendments**

**F854** Sch. 18 para. 4 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 21 para. 35(a)**; [S.I. 2012/2906](#), art. 2(s)

**F855** SCHEDULE 18A

Section 236A

**Textual Amendments**

**F855** Sch. 18A 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

SCHEDULE 19

Section 239(7)

THE PAROLE BOARD: SUPPLEMENTARY PROVISIONS

*Status and Capacity*

- 1 (1) The Board is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board’s property is not to be regarded as property of, or held on behalf of, the Crown.

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- (2) It is within the capacity of the Board as a statutory corporation to do such things and enter into such transactions as are incidental to or conducive to the discharge of—
- (a) its functions under Chapter 6 of Part 12 in respect of fixed-term prisoners, and
  - (b) its functions under Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (c. 43) in relation to life prisoners within the meaning of that Chapter.

#### **Commencement Information**

**I633** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 41** (subject to **art. 2(2), Sch. 2**)

#### *Membership*

- 2 (1) The Board is to consist of a chairman and not less than four other members appointed by the Secretary of State.
- (2) The Board must include among its members—
- (a) a person who holds or has held judicial office;
  - (b) a registered medical practitioner who is a psychiatrist;
  - (c) a person appearing to the Secretary of State to have knowledge and experience of the supervision or after-care of discharged prisoners; and
  - (d) a person appearing to the Secretary of State to have made a study of the causes of delinquency or the treatment of offenders.
- (3) A member of the Board—
- (a) holds and vacates office in accordance with the terms of his appointment;
  - (b) may resign his office by notice in writing addressed to the Secretary of State;
- and a person who ceases to hold office as a member of the Board is eligible for re-appointment.

#### **Commencement Information**

**I634** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 41** (subject to **art. 2(2), Sch. 2**)

#### *Payments to members*

- 3 (1) The Board may pay to each member such remuneration and allowances as the Secretary of State may determine.
- (2) The Board may pay or make provision for paying to or in respect of any member such sums by way of pension, allowances or gratuities as the Secretary of State may determine.
- (3) If a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances that make it right that he should receive compensation, the Secretary of State may direct the

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Board to make to that person a payment of such amount as the Secretary of State may determine.

- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

#### Commencement Information

**I635** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 41 (subject to art. 2(2), Sch. 2)

#### Proceedings

- 4 (1) Subject to the provisions of section 239(5), the arrangements relating to meetings of the Board are to be such as the Board may determine.
- (2) The arrangements may provide for the discharge, under the general direction of the Board, of any of the Board's functions by a committee or by one or more of the members or employees of the Board.
- (3) The validity of the proceedings of the Board are not to be affected by any vacancy among the members or by any defect in the appointment of a member.

#### Commencement Information

**I636** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 41 (subject to art. 2(2), Sch. 2)

#### Staff

- 5 (1) The Board may appoint such number of employees as it may determine.
- (2) The remuneration and other conditions of service of the persons appointed under this paragraph are to be determined by the Board.
- (3) Any determination under sub-paragraph (1) or (2) requires the approval of the Secretary of State given with the consent of the Treasury.
- (4) The Employers' Liability (Compulsory Insurance) Act 1969 (c. 57) shall not require insurance to be effected by the Board.

#### Commencement Information

**I637** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 41 (subject to art. 2(2), Sch. 2)

- 6 (1) Employment with the Board shall continue to be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) can apply, and accordingly in Schedule 1 to that Act (in which those kinds

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of employment are listed) at the end of the list of Other Bodies there shall continue to be inserted— “ Parole Board. ”.

- (2) The Board shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.

**Commencement Information**

**I638** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 41** (subject to **art. 2(2), Sch. 2**)

*Financial provisions*

- 7 (1) The Secretary of State shall pay to the Board—
- (a) any expenses incurred or to be incurred by the Board by virtue of paragraph 3 or 5; and
  - (b) with the consent of the Treasury, such sums as he thinks fit for enabling the Board to meet other expenses.
- (2) Any sums required by the Secretary of State for making payments under subparagraph (1) are to be paid out of money provided by Parliament.

**Commencement Information**

**I639** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 41** (subject to **art. 2(2), Sch. 2**)

*Authentication of Board’s seal*

- 8 The application of the seal of the Board is to be authenticated by the signature of the Chairman or some other person authorised for the purpose.

**Commencement Information**

**I640** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 41** (subject to **art. 2(2), Sch. 2**)

*Presumption of authenticity of documents issued by Board*

- 9 Any document purporting to be an instrument issued by the Board and to be duly executed under the seal of the Board or to be signed on behalf of the Board shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.



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#### Commencement Information

**I641** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 41** (subject to **art. 2(2), Sch. 2**)

#### *Accounts and audit*

- 10 (1) It is the duty of the Board—
- (a) to keep proper accounts and proper records in relation to the accounts;
  - (b) to prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
  - (c) to send copies of each such statement to the Secretary of State and the Comptroller and Auditor General not later than 31st August next following the end of the financial year to which the statement relates.
- (2) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts sent to him by the Board and shall lay a copy of every such statement and of his report before each House of Parliament.
- (3) In this paragraph and paragraph 11 “financial year” means a period of 12 months ending with 31st March.

#### Commencement Information

**I642** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 41** (subject to **art. 2(2), Sch. 2**)

#### *Reports*

- 11 The Board must as soon as practicable after the end of each financial year make to the Secretary of State a report on the performance of its functions during the year; and the Secretary of State must lay a copy of the report before each House of Parliament.

#### Commencement Information

**I643** Sch. 19 wholly in force at 4.4.2005; Sch. 19 not in force at Royal Assent, see s. 336(3); Sch. 19 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; Sch. 19 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 41** (subject to **art. 2(2), Sch. 2**)

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## [<sup>F856</sup>SCHEDULE 19ZA

Section 247A

### OFFENCES CARRYING RESTRICTED ELIGIBILITY OF TERRORIST PRISONERS FOR RELEASE ON LICENCE

#### Textual Amendments

**F856** Sch. 19ZA substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(n), Sch. 9

### PART 1

#### TERRORISM OFFENCES PUNISHABLE WITH IMPRISONMENT FOR LIFE

- 1 An offence under any of the following provisions of the Terrorism Act 2000—
  - (a) section 54 (weapons training);
  - (b) section 56 (directing a terrorist organisation);
  - (c) section 59 (inciting terrorism overseas: England and Wales), other than an offence which is an offence by virtue of subsection (2)(c) of that section;
  - (d) section 60 (inciting terrorism overseas: Northern Ireland), other than an offence which is an offence by virtue of subsection (2)(c) of that section;
  - (e) section 61 (inciting terrorism overseas: Scotland).
- 2 An offence under any of the following provisions of the Terrorism Act 2006—
  - (a) section 5 (preparation of terrorist acts);
  - (b) section 6 (training for terrorism);
  - (c) section 9 (making or possession of radioactive device or material);
  - (d) section 10 (misuse of radioactive device or material for terrorist purposes etc);
  - (e) section 11 (terrorist threats relating to radioactive devices etc).
- 3
  - (1) An attempt to commit an offence specified in a preceding paragraph of this Part of this Schedule (“a listed offence”).
  - (2) Conspiracy to commit a listed offence.
  - (3) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence is the offence (or one of the offences) which the person intended or believed would be committed.
  - (4) Incitement to commit a listed offence.
  - (5) Aiding, abetting, counselling or procuring the commission of a listed offence.
- 4 An offence that—
  - (a) was abolished before the coming into force of this Schedule, and
  - (b) if committed on the day on which this Schedule came into force, would have constituted an offence specified in any of the preceding paragraphs of this Part of this Schedule.

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## PART 2

### TERRORISM OFFENCES PUNISHABLE WITH IMPRISONMENT FOR MORE THAN TWO YEARS (BUT NOT LIFE)

- 5 An offence under any of the following provisions of the Terrorism Act 2000—
- (a) section 11 (membership of a proscribed organisation);
  - (b) section 12 (inviting or expressing support for a proscribed organisation);
  - (c) section 15 (fund-raising);
  - (d) section 16 (use of money or property for terrorist purposes);
  - (e) section 17 (involvement in terrorist funding arrangements);
  - (f) section 17A (insuring payments made in response to terrorist threats);
  - (g) section 18 (laundering of terrorist property);
  - (h) section 19 (failure to disclose professional belief or suspicion about terrorist offences);
  - (i) section 21A (failure in regulated sectors to disclose knowledge or suspicion about terrorist offences);
  - (j) section 38B (failure to disclose information about acts of terrorism);
  - (k) section 39 (disclosure of information prejudicial to a terrorist investigation etc);
  - (l) section 57 (possession of article for terrorist purposes);
  - (m) section 58 (collection of information likely to be of use to a terrorist);
  - (n) section 58A (publishing information about members of the armed forces etc);
  - (o) section 58B (entering or remaining in a designated area);
  - (p) section 59 (inciting terrorism overseas: England and Wales), in the case of an offence which is an offence by virtue of the reference in subsection (2)(c) of that section to an offence under section 23 of the Offences against the Person Act 1861;
  - (q) section 60 (inciting terrorism overseas: Northern Ireland), in the case of an offence which is an offence by virtue of the reference in subsection (2)(c) of that section to an offence under section 23 of the Offences against the Person Act 1861.
- 6 An offence under section 113 of the Anti-terrorism, Crime and Security Act 2001 (use of noxious substances to harm or intimidate).
- 7 An offence under any of the following provisions of the Terrorism Act 2006—
- (a) section 1 (encouragement of terrorism);
  - (b) section 2 (dissemination of terrorist publications);
  - (c) section 8 (attendance at a place used for terrorist training).
- 8 An offence under section 54 of the Counter-Terrorism Act 2008 (breach of police notification requirements etc).
- 9 An offence under section 23 of the Terrorism Prevention and Investigation Measures Act 2011 (breach of notices imposing terrorism prevention and investigation measures).
- 10 An offence under section 10 of the Counter-Terrorism and Security Act 2015 (breach of temporary exclusion order).

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- 11 (1) An attempt to commit an offence specified in a preceding paragraph of this Part of this Schedule (“a listed offence”).
- (2) Conspiracy to commit a listed offence.
- (3) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence is the offence (or one of the offences) which the person intended or believed would be committed.
- (4) Incitement to commit a listed offence.
- (5) Aiding, abetting, counselling or procuring the commission of a listed offence.
- 12 An offence that—
- (a) was abolished before the coming into force of this Schedule, and
  - (b) if committed on the day on which this Schedule came into force, would have constituted an offence specified in any of the preceding paragraphs of this Part of this Schedule.

### PART 3

#### OTHER OFFENCES PUNISHABLE WITH IMPRISONMENT FOR LIFE

- 13 Manslaughter.
- 14 Culpable homicide (under the law of Scotland).
- 15 Kidnapping.
- 16 False imprisonment.
- 17 Abduction (under the law of Scotland).
- 18 Assault by explosive device (under the law of Scotland).
- 19 Assault to severe injury (under the law of Scotland).
- 20 Assault and poisoning (under the law of Scotland).
- 21 Poisoning (under the law of Scotland).
- 22 Robbery (under the law of Scotland).
- 23 Assault with intent to rob (under the law of Scotland).
- 24 Wilful fire-raising (under the law of Scotland).
- 25 Malicious mischief (under the law of Scotland).
- 26 Riot (under the law of Northern Ireland).
- 27 Affray (under the law of Northern Ireland).
- 28 An offence under any of the following provisions of the Offences against the Person Act 1861—
- (a) section 4 (soliciting murder);
  - (b) section 18 (wounding with intent to cause grievous bodily harm);
  - (c) section 21 (attempting to choke, suffocate or strangle in order to commit or assist in the committing of an indictable offence);
  - (d) section 22 (using chloroform etc to commit or assist in the committing of any indictable offence);

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- (e) section 28 (causing bodily injury by explosives);
  - (f) section 29 (using explosives etc with intent to do grievous bodily harm);
  - (g) section 32 (endangering the safety of railway passengers).
- 29 An offence under any of the following provisions of the Explosive Substances Act 1883—
- (a) section 2 (causing explosion likely to endanger life or property);
  - (b) section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property);
  - (c) section 4 (making or possession of explosive under suspicious circumstances);
  - (d) section 5 (punishment of accessories to offences of causing or attempting to cause explosions or making or possessing explosives).
- 30 An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).
- 31 An offence under section 1 of the Infanticide Act 1938 (infanticide).
- 32 An offence under section 1 of the Infanticide Act (Northern Ireland) 1939 (c. 5 (N.I.)) (infanticide).
- 33 An offence under section 25 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) (child destruction).
- 34 An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 16 (possession of firearm with intent to endanger life);
  - (b) section 17(1) (use of firearm to resist arrest);
  - (c) section 17(2) (possession of firearm at time of committing or being arrested for offence specified in Schedule 1 to that Act);
  - (d) section 18 (carrying a firearm with criminal intent).
- 35 An offence under either of the following provisions of the Theft Act 1968—
- (a) section 8 (robbery or assault with intent to rob);
  - (b) section 10 (aggravated burglary).
- 36 An offence under either of the following provisions of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))—
- (a) section 8 (robbery);
  - (b) section 10 (aggravated burglary).
- 37 (1) An offence of arson under section 1 of the Criminal Damage Act 1971.
- (2) An offence under section 1(2) of that Act (destruction or damage of property with intent or recklessness as to endangerment of life) other than an offence of arson.
- 38 An offence under section 1 of the Biological Weapons Act 1974 (developing certain biological agents and toxins or biological weapons).
- 39 (1) An offence of arson under Article 3 of the Criminal Damage (Northern Ireland) Order 1977 (S.I. 1977/426 (N.I. 4)).
- (2) An offence under Article 3(2) of that Order (destruction or damage of property with intent or recklessness as to endangerment of life) other than an offence of arson.
- 40 An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking).

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- 41 An offence under any of the following provisions of the Aviation Security Act 1982—
- (a) section 1 (hijacking);
  - (b) section 2 (destroying, damaging or endangering safety of aircraft);
  - (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
  - (d) section 6(2) (inducing or assisting the commission of offences relating to safety of aircraft).
- 42 An offence under either of the following provisions of the Nuclear Material (Offences) Act 1983—
- (a) section 1B (offences relating to damage to the environment);
  - (b) section 2 (preparatory acts and threats).
- 43 An offence under section 134 of the Criminal Justice Act 1988 (torture).
- 44 An offence under any of the following provisions of the Aviation and Maritime Security Act 1990—
- (a) section 1 (endangering safety at aerodromes);
  - (b) section 9 (hijacking of ships);
  - (c) section 10 (seizing or exercising control of fixed platforms);
  - (d) section 11 (destroying ships or fixed platforms or endangering their safety);
  - (e) section 12 (other acts endangering or likely to endanger safe navigation);
  - (f) section 13 (offences involving threats);
  - (g) section 14(4) (inducing or assisting the commission of offences relating to hijacking of ships, or destroying ships or fixed platforms or endangering their safety).
- 45 An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).
- 46 An offence under either of the following provisions of the Chemical Weapons Act 1996—
- (a) section 2 (use etc of chemical weapons);
  - (b) section 11 (premises or equipment used for producing chemical weapons).
- 47 An offence under any of the following provisions of the International Criminal Court Act 2001, other than an offence involving murder—
- (a) section 51 (genocide, crimes against humanity and war crimes: England and Wales);
  - (b) section 52 (conduct ancillary to genocide etc: England and Wales);
  - (c) section 58 (genocide, crimes against humanity and war crimes: Northern Ireland);
  - (d) section 59 (conduct ancillary to genocide etc: Northern Ireland).
- 48 An offence under either of the following provisions of the Anti-Terrorism, Crime and Security Act 2001—
- (a) section 47 (use etc of nuclear weapons);
  - (b) section 50 (assisting or inducing certain weapons-related acts overseas).
- 49 An offence under section 1 or 2 of the International Criminal Court (Scotland) Act 2001 (asp 13) (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.

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- 50 An offence under any of the following provisions of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3))—
- (a) Article 58(1) (possession of firearm with intent to endanger life etc);
  - (b) Article 59(1) (use of firearm to resist arrest);
  - (c) Article 59(2) (possession of firearm while committing other offence);
  - (d) Article 60 (carrying a firearm with criminal intent).
- 51 An offence under either of the following provisions of the Modern Slavery Act 2015—
- (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking).
- 52 An offence under either of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12)—
- (a) section 1 (human trafficking);
  - (b) section 4 (slavery, servitude and forced or compulsory labour).
- 53 An offence under either of the following provisions of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.))—
- (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking).
- 54 An offence under any of the following provisions of Schedule 4 to the Space Industry Act 2018—
- (a) paragraph 1 (hijacking of spacecraft);
  - (b) paragraph 2 (destroying, damaging or endangering the safety of spacecraft);
  - (c) paragraph 3 (other acts endangering or likely to endanger safety of spacecraft);
  - (d) paragraph 4 (endangering safety at spaceports).
- 55 (1) An attempt to commit an offence specified in a preceding paragraph of this Part of this Schedule (“a listed offence”).
- (2) Conspiracy to commit a listed offence.
- (3) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence is the offence (or one of the offences) which the person intended or believed would be committed.
- (4) Incitement to commit a listed offence.
- (5) Aiding, abetting, counselling or procuring the commission of a listed offence.
- 56 (1) An attempt to commit murder.
- (2) Conspiracy to commit murder.
- (3) An offence under Part 2 of the Serious Crime Act 2007 in relation to which murder is the offence (or one of the offences) which the person intended or believed would be committed.
- (4) Incitement to commit murder.
- (5) Aiding, abetting, counselling or procuring murder.



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- 57 An offence that—
- (a) was abolished before the coming into force of this Schedule, and
  - (b) if committed on the day on which this Schedule came into force, would have constituted an offence specified in any of the preceding paragraphs of this Part of this Schedule.]

## [<sup>F857</sup>SCHEDULE 19A

### SUPERVISION DEFAULT ORDERS

#### Textual Amendments

**F857** Sch. 19A inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 2** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(f)

#### Modifications etc. (not altering text)

**C79** Sch. 19A applied (with modifications) by [1997 c. 43](#), Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), Sch. 3 para. 3(2)(3)(5) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))

**C80** Sch. 19A applied (with modifications) by [2006 c. 43](#), s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), ss. 6(4), 22(1) (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(f))

**C81** Sch. 19A applied (with modifications) (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), ss. 247(2)(c)(3)(4), 416(1) (with ss. 2, 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2

## [<sup>F858</sup>PART 1

### REQUIREMENTS ETC

#### Textual Amendments

**F858** Sch. 19A Pt. 1 substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 248(2)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### *Application of provisions of the Sentencing Code*

- 1 The provisions of the Sentencing Code listed in paragraph 2 apply in relation to a supervision default order as they apply in relation to a community order but with the modifications listed in paragraph 3.
- 2 Those provisions are—
  - (a) sections 208(13) and 214(4) (requirement to avoid conflict with religious beliefs);
  - (b) section 210 (local justice area to be specified in order);
  - (c) section 212(2)(a) and (b) and (3) (provision of copies);
  - (d) section 220(1)(b), (2) and (3) (completion of unpaid work requirement);
  - (e) section 395 (data from electronic monitoring: code of practice);
  - (f) paragraphs 1(1), 2(1) and 3 of Schedule 9 (unpaid work requirement);

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- (g) paragraph 34(1) and (2) of that Schedule (availability of arrangements in local area);
- (h) paragraphs [<sup>F859</sup>9(1) to (4A)] and 10(1) and (2) of that Schedule (curfew requirement);
- (i) paragraphs 29(1) and 31 to 33 of that Schedule (electronic monitoring requirement).

#### Textual Amendments

**F859** Words in Sch. 19A para. 2(h) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 150\(8\)\(a\)](#), 208(5)(q)

- 3 (1) The modifications mentioned in paragraph 1 are as follows.
- (2) Section 212(2)(b) applies as if the reference to the responsible officer were to the supervisor.
  - (3) Section 214(4) applies as if the reference to the responsible officer were to the supervisor.
  - (4) Paragraph 1(1) of Schedule 9 applies—
    - (a) as if the reference to the responsible officer were to the supervisor, and
    - (b) as if, in paragraph (b), for “during a period of 12 months” there were substituted “ before the end of the supervision period. ”
  - (5) Paragraph 2(1) of that Schedule applies as if for sub-paragraphs (i) and (ii) of paragraph (b) (limit on number of hours of unpaid work) there were substituted—
    - “(i) not less than 20 hours, and
    - (ii) not more than 60 hours.”
  - (6) Paragraph 9 of that Schedule applies as if for sub-paragraph (4) there were substituted—
    - “(4) The order—
      - (a) may not specify periods which amount to less than 2 hours or more than [<sup>F860</sup>the relevant number of hours] in any day,
      - (b) may not specify periods which fall outside the supervision period, and
      - (c) must require the person to remain at the specified place or places on at least 20 days.”
  - [<sup>F861</sup>(6A) Paragraph 9(4A) of that Schedule applies as if references to an offence of which the offender was convicted before, on or after a day were references to a failure by a person to comply with a requirement that occurred before, on or after that day.]
  - (7) Paragraph 29(1) of that Schedule applies as if paragraph (b) were omitted.
  - (8) Paragraph 32 of that Schedule applies as if the references to the responsible officer were to the supervisor.

#### Textual Amendments

**F860** Words in Sch. 19A para. 3(6) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 150\(8\)\(b\)\(i\)](#), 208(5)(q)

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**F861** Sch. 19A para. 3(6A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 150(8)(b)(ii), 208(5)(q)

*Powers of Secretary of State in relation to provisions of the Sentencing Code*

- 4 The Secretary of State's power to make regulations under subsection (4) of section 214 of the Sentencing Code (requirement to avoid conflict with religious beliefs etc) includes power to provide for that subsection, as applied by this Schedule, to have effect with additional restrictions specified in the regulations.
- 5 (1) The Secretary of State's power to make rules under section 394 of the Sentencing Code (rules regulating the supervision of persons subject to community orders etc) may be exercised in relation to persons subject to supervision default orders.
- (2) For the purpose of sub-paragraph (1), section 394(1)(b) of the Sentencing Code has effect as if the reference to responsible officers were to supervisors.
- 6 The Secretary of State may by regulations amend paragraph 3(5) or (6) by changing the number of hours or days for the time being specified there.]

**PART 2**

BREACH, REVOCATION OR AMENDMENT

*Proceedings for breach*

- 7 (1) If the supervisor in relation to a person subject to supervision requirements under section 256AA—
- (a) is satisfied that the person has failed without reasonable excuse to comply with a requirement imposed by a supervision default order, and
- (b) considers that the failure should be dealt with by a court,
- the supervisor must refer the matter to an enforcement officer.
- (2) Where a matter is referred to an enforcement officer under this paragraph, it is the duty of the enforcement officer—
- (a) to consider the case, and
- (b) where appropriate, to cause an information to be laid before a justice of the peace in respect of the person's failure to comply with the requirement.
- (3) In this paragraph “enforcement officer” means a person who is for the time being responsible for discharging the functions conferred by this Schedule on an enforcement officer in accordance with arrangements made by the Secretary of State.
- (4) An enforcement officer must be an officer of a provider of probation services that is a public sector provider.
- (5) In sub-paragraph (4) “public sector provider” means—
- (a) a probation trust or other public body, or
- (b) the Secretary of State.

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*Issue of summons or warrant by justice of the peace*

- 8 (1) If at any time while a supervision default order is in force it appears on information to a justice of the peace that the person subject to the order has failed to comply with a requirement imposed by the order, the justice may—
- (a) issue a summons requiring the person to appear at the place and time specified in it, or
  - (b) if the information is in writing and on oath, issue a warrant for the person's arrest.
- (2) A summons or warrant issued under this paragraph must direct the person to appear or be brought before—
- (a) a magistrates' court acting for the local justice area in which the person resides, or
  - (b) if it is not known where the person resides, before a magistrates' court acting for the local justice area specified in the supervision default order.

*Powers of magistrates' court to deal with breach*

- 9 (1) This paragraph applies if it is proved to the satisfaction of a magistrates' court before which a person appears or is brought under paragraph 8 that the person has failed without reasonable excuse to comply with a requirement imposed by the supervision default order.
- (2) The court may revoke the order and deal with the person for the failure in any of the ways listed in section 256AC(4)(a) to (c) (and section 256AC(5) and (7) to (9) apply accordingly).
- (3) In dealing with a person under this paragraph, a magistrates' court must take into account the extent to which the person has complied with the supervision default order.
- (4) A person dealt with under this paragraph may appeal to the Crown Court against the order made by the court.

*Amendment or revocation of order by magistrates' court*

- 10 (1) Where a person is subject to a supervision default order, the appropriate magistrates' court may on the application of the person or an officer of a provider of probation services—
- (a) revoke the order,
  - (b) amend the order, or
  - (c) revoke the order and deal with the person under section 256AC(4) in any way in which it could deal with the person if the order had never been made.
- (2) A magistrates' court acting under sub-paragraph (1)(b)—
- (a) may not increase the number of hours or days specified in the order;
  - (b) may reduce the number of hours or days so specified, but not so as to reduce them below the minimum specified in [F862 paragraph 2(1) or 9(4) of Schedule 9 to the Sentencing Code] (as modified by paragraph 3).
- (3) In exercising its powers under sub-paragraph (1), a magistrates' court must take into account the extent to which the person has complied with the supervision default order.

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- (4) Where a court exercises its powers under sub-paragraph (1)(b) or (c), the person may appeal to the Crown Court against the order made by the court.
- (5) Where a magistrates' court proposes to exercise its powers under this paragraph on an application of an officer of a provider of probation services, the court—
  - (a) must summon the person subject to the supervision default order to appear before the court, and
  - (b) if the person does not appear in answer to the summons, may issue a warrant for the person's arrest.
- (6) Sub-paragraph (5) does not apply where the court proposes only to amend the order to reduce the number of hours or days specified in it.
- (7) Where an application under this paragraph is made by a person subject to a supervision default order, the magistrates' court may not hear the application unless satisfied that adequate notice has been given to any officer of a provider of probation services who the court thinks has an interest in the application.
- (8) No application may be made under this paragraph while an appeal against the supervision default order is pending.
- (9) In this paragraph “the appropriate magistrates' court” means a magistrates' court acting in the local justice area specified in the supervision default order.

#### Textual Amendments

**F862** Words in Sch. 19A para. 10(2)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 248\(3\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2

#### *Amendment of local justice area specified in order*

- 11 (1) This paragraph applies where, at any time while a supervision default order is in force in respect of a person, the appropriate magistrates' court is satisfied that the person proposes to change, or has changed, residence from the local justice area specified in the order to another local justice area (“the new local justice area”).
- (2) The appropriate magistrates' court may amend the order to specify the new local justice area.
- (3) In this paragraph “the appropriate magistrates' court” has the same meaning as in paragraph 10.

#### *Revocation of order on imposition of further sentence*

- 12 (1) This paragraph applies where—
  - (a) the Crown Court or a magistrates' court is sentencing a person for an offence, and
  - (b) a supervision default order is in force in respect of the person.
- (2) If the court imposes a sentence of imprisonment or detention (other than a suspended sentence) it must revoke the supervision default order.
- (3) If the court makes a community order or suspended sentence order it may revoke the supervision default order and deal with the person under section 256AC(4) in

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any way in which the person could be dealt with under section 256AC(4) if the supervision default order had never been made.

- 13 Where—
- (a) the Crown Court or a magistrates' court orders that a suspended sentence or any part of it is to take effect in relation to a person, and
  - (b) a supervision default order is in force in respect of the person,
- the court must revoke the supervision default order.]

## [<sup>F863</sup>SCHEDULE 19B

Section 261

### PRISONERS RETURNING TO THE UK: MODIFICATIONS OF CHAPTER 6 OF PART 12

#### Textual Amendments

**F863** Sch. 19B inserted (28.6.2022 for E.W.) by Nationality and Borders Act 2022 (c. 36), s. 87(1), Sch. 8; S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 24 (with Sch. 2 para. 9)

#### *Modification of dates for referral to the Board*

- 1 Paragraph 2 applies where section 244ZC(2), 244A(2) or 246A(4) (when read with section 260(4A)) would require the Secretary of State to refer a person's case to the Board on a day falling before the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 2 The applicable provision is to be read as requiring the Secretary of State to refer the person's case to the Board at any time up to the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 3 For the purposes of paragraphs 1 and 2, a person returns to custody when the person, having returned to the United Kingdom, is detained (whether or not in prison) in pursuance of their sentence.

#### *Person removed after Board had directed release but before being released*

- 4 Paragraphs 5 and 6 apply where, before a person's removal from the United Kingdom—
- (a) the Board had directed their release under section 244ZC, 244A or 246A, but
  - (b) they had not been released on licence.
- 5 The direction of the Board is to be treated as having no effect.
- 6 The person is to be treated as if—
- (a) they had been recalled under section 254 on the day on which they returned to the United Kingdom, and
  - (b) they were not suitable for automatic release (see section 255A).

#### *Person removed after referral to the Board but before disposal of the reference*

- 7 Paragraph 8 applies where—

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- (a) before a person's removal from prison their case had been referred to the Board under section 244ZB(3), 244ZC(2), 244A(2) or 246A(4), and
  - (b) the reference lapsed under section 260(4B) because the person was removed from the United Kingdom before the Board had disposed of the reference.
- 8 Section 244ZC(2), 244A(2) or 246A(4) (as applicable) is to be read as requiring the Secretary of State to refer the person's case to the Board before the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 9 For the purposes of paragraph 8, a person returns to custody when the person, having returned to the United Kingdom, is detained (whether or not in prison) in pursuance of their sentence.

*Person removed after having been recalled to prison*

- 10 Paragraphs 11 and 12 apply where, at the time of a person's removal from prison under section 260, the person was in prison following recall under section 254.
- 11 Any direction of the Board made in relation to the person under section 255C or 256A before their return to the United Kingdom is to be treated as having no effect.
- 12 The person is to be treated as if—
- (a) they had been recalled under section 254 on the day on which they returned to the United Kingdom, and
  - (b) they were not suitable for automatic release (see section 255A).]

F864 SCHEDULE 20

**Textual Amendments**

**F864** Sch. 20 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 16](#); S.I. 2012/2906, art. 2(n)

F865 SCHEDULE 20A

Section 267A

APPLICATION OF CHAPTER 6 OF PART 12 TO PRE-4 APRIL 2005 CASES

**Textual Amendments**

**F865** Sch. 20A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 3](#); S.I. 2012/2906, art. 2(n)

**Modifications etc. (not altering text)**

**C82** Schs. 20A, 20B applied by 1997 c. 43, Sch. 1 para. 8(2)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 3\(2\)\(b\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))



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- C83** Schs. 20A, 20B applied by 1997 c. 43, Sch. 1 para. 9(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 3\(3\)\(b\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))
- C84** Schs. 20A, 20B applied by 1997 c. 43, Sch. 1 para. 9(2)(a)(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 5\(2\)\(3\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))

- 1 In this Schedule—  
“the 1991 Act” means the Criminal Justice Act 1991;  
“the commencement date” means the date on which section 121 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.
- 2 Paragraphs 3 to 9 apply in relation to any person serving a sentence for an offence committed before 4 April 2005, whenever that sentence was imposed (see section 121(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012).
- 3 (1) Any relevant period is to be treated, for the purposes of section 240ZA, as if it were a period for which the offender was remanded in custody in connection with the offence.
- (2) “Relevant period” means any period which would (but for the repeal of section 67 of the Criminal Justice Act 1967) be a relevant period within the meaning of that section (reduction of sentences by period spent in custody etc).
- 4 [ <sup>F867</sup>Section 246(4) applies as if—
- <sup>F866</sup>(1) (a) the reference in paragraph (a) to section 227 or 228 were a reference to section 85 of the Sentencing Act;
- (b) the reference in paragraph (d) to paragraph 9(1)(b) or (c) or 10(1)(b) or (c) of Schedule 8 were a reference to paragraph 4(1)(d) or 5(1)(d) of Schedule 3 to the Sentencing Act;
- <sup>F868</sup>(c) .....
- (d) the references in paragraph (h) to sections 248 and 254 included references to, respectively, sections 36 and 39(1) or (2) of the 1991 Act; and
- (e) in paragraph (i), the words from “in the case of” to “relates” were omitted.
- [ Section 246(6) applies as if, in the definition of “term of imprisonment”, the reference <sup>F869</sup>(2) to section 227 or 228 included a reference to section 85 of the Sentencing Act.]

#### Textual Amendments

- F866** Sch. 20A para. 4 renumbered as Sch. 20A para. 4(1) (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 15\(7\)\(a\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 11
- F867** Words in Sch. 20A para. 4(1) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 15\(7\)\(b\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 11
- F868** Sch. 20A para. 4(1)(c) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 15\(7\)\(c\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 11
- F869** Sch. 20A para. 4(2) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 15\(7\)\(d\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 11

- 5 (1) Where the person has been released on licence under Part 2 of the 1991 Act or under section 60 of the Criminal Justice Act 1967 before the commencement date, the person is to be treated as if the release had been under this Chapter.



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- (2) In particular, the following provisions apply.
  - (3) A licence under section 34A of the 1991 Act is to be treated as if it were a licence under section 246.
  - (4) A licence under section 36 of the 1991 Act is to be treated as if it were a licence under section 248.
  - (5) Any condition of a licence specified under section 37 of the 1991 Act is to have effect as if it were included under section 250 (whether or not the condition is of a kind which could otherwise be included under that section).
  - (6) Where the licence is, on the commencement date, subject to a suspension under section 38(2) of the 1991 Act, the suspension continues to have effect for the period specified by the court despite the repeal of that section.
  - (7) A licence under section 40A of the 1991 Act is to be treated as if it were a licence under this Chapter, except that in respect of any failure (before or after the commencement date) to comply with the conditions of the licence, the person is liable to be dealt with in accordance with section 40A(4) to (6) (despite the repeal of that section) and is not liable to be dealt with in any other way.
  - (8) Sub-paragraph (1) does not affect the duration of the licence.
- 6 (1) Where a person has been recalled under Part 2 of the 1991 Act before the commencement date, the person is to be treated as if the recall had been under section 254.
- (2) In particular, the following provisions apply.
  - (3) If the Secretary of State has not referred the person's case to the Board under section 39(4) or 44A of the 1991 Act, the Secretary of State must refer the case under section 255C(4).
  - (4) If the Secretary of State has referred the person's case to the Board under section 39(4) or 44A of the 1991 Act, that reference is to be treated as if it had been made under section 255C(4).
- <sup>F870</sup>(5) .....
- (6) If the person is released on licence, the duration of that licence is determined in accordance with section 249 (subject to paragraphs 17, 19 and 26 of Schedule 20B).

**Textual Amendments**  
**F870** Sch. 20A para. 6(5) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 136\(7\)](#), 208(1); S.I. 2022/520, reg. 5(p)

- 7 Rules made by virtue of section 42 of the 1991 Act have effect as if made by virtue of section 257.
- 8 (1) A person removed from prison under section 46A of the 1991 Act before the commencement date is to be treated as having been removed from prison under section 260.
- <sup>F871</sup>(2) .....

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### Textual Amendments

**F871** Sch. 20A para. 8(2) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 14\(6\)\(a\), 95\(1\)](#) (with [s. 14\(7\)](#)); S.I. 2015/778, art. 3, Sch. 1 para. 10

[<sup>F872</sup>8A Section 268(1A) (definition of “the requisite custodial period”) has effect as if it provided that, in relation to a person serving an extended sentence under section 85 of the Sentencing Act, the requisite custodial period means one-half of the custodial term determined under that section (subject to sections 263 and 264).]

### Textual Amendments

**F872** Sch. 20A para. 8A inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 14\(6\)\(b\), 95\(1\)](#) (with [s. 14\(7\)](#)); S.I. 2015/778, art. 3, Sch. 1 para. 10

9 An order made under section 47 of the 1991 Act is to have effect as if it were an order made under section 243.

10 Section 264 applies as if the definition of “custodial period” in subsection (6) included, in relation to an extended sentence imposed under section 85 of the Sentencing Act, one-half of the custodial term determined under that section.]

## [<sup>F873</sup>SCHEDULE 20B

Section 267B

### MODIFICATIONS OF CHAPTER 6 OF PART 12 IN CERTAIN TRANSITIONAL CASES

### Textual Amendments

**F873** Sch. 20B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 17 para. 10](#); S.I. 2012/2906, art. 2(o)

## PART 1

### INTRODUCTORY

#### *Interpretation*

- 1 (1) The following provisions apply for the purposes of this Schedule.
- (2) “The commencement date” means the date on which section 121 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.
- (3) “The 1967 Act” means the Criminal Justice Act 1967.
- (4) “The 1991 Act” means the Criminal Justice Act 1991.
- (5) A “section 85 extended sentence” means an extended sentence under section 85 of the Sentencing Act and includes (in accordance with paragraph 1(3) of Schedule 11 to that Act) a sentence under section 58 of the Crime and Disorder Act 1998.

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- (6) In relation to a section 85 extended sentence, “the custodial term” and “the extension period” have the meaning given by that section.
- (7) References to section 86 of the Sentencing Act include (in accordance with paragraph 1(3) of Schedule 11 to that Act) section 44 of the 1991 Act as originally enacted.
- (8) A “1967 Act sentence” is a sentence imposed before 1 October 1992.
- (9) A “1991 Act sentence” is a sentence which is—
  - (a) imposed on or after 1 October 1992 but before 4 April 2005, or
  - (b) imposed on or after 4 April 2005 but before the commencement date and is either—
    - (i) imposed in respect of an offence committed before 4 April 2005, or
    - (ii) for a term of less than 12 months.
- (10) A “2003 Act sentence” is a sentence which is—
  - (a) imposed on or after the commencement date, or
  - (b) imposed on or after 4 April 2005 but before the commencement date and is both—
    - (i) imposed in respect of an offence committed on or after 4 April 2005, and
    - (ii) for a term of 12 months or more.
- (11) 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 is to be taken for the purposes of this Schedule to have been committed on the last of those days.

*Explanation of dates*

- 2 The following dates (which are mentioned in this Schedule) are dates on which changes to the law relating to the release and recall of prisoners came into force—
  - 1 October 1992 is the date on which Part 2 of the 1991 Act came into force;
  - 30 September 1998 is the date on which certain provisions of the Crime and Disorder Act 1998 came into force;
  - 4 April 2005 is the date on which this Chapter came into force;
  - 9 June 2008 is the date on which section 26 of the Criminal Justice and Immigration Act 2008 came into force;
  - 14 July 2008 is the date on which certain other provisions of that Act came into force;
  - 2 August 2010 is the date on which section 145 of the Coroners and Justice Act 2009 came into force.

**PART 2**

PRISONERS SERVING 1991 ACT SENTENCES ETC

- 3 (1) This Part applies to certain persons serving a 1991 Act sentence.
- (2) This Part also applies to a person serving a 2003 Act sentence which is—
  - <sup>F874</sup>(a) .....
  - (b) an extended sentence imposed under section 227 or 228 before 14 July 2008.

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- (3) But this Part does not apply to a person who—
- (a) has been released on licence under Part 2 of the 1991 Act,
  - (b) has been recalled to prison, and
  - (c) (whether or not having returned to custody in consequence of that recall) is unlawfully at large on the commencement date.

#### Textual Amendments

**F874** Sch. 20B para. 3(2)(a) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), ss. [15\(8\)](#), [95\(1\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 11

#### *Duty to release on licence at two-thirds of sentence*

- 4 (1) This paragraph applies to a person in relation to whom—
- (a) all the conditions in sub-paragraph (2) are met, and
  - (b) the condition in any one or more of sub-paragraphs (3) to (5) is met.
- (2) The conditions in this sub-paragraph are that—
- (a) the person has been convicted of an offence committed before 4 April 2005,
  - (b) the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992 but before the commencement date,
  - (c) the sentence or (in the case of a section 85 extended sentence) the custodial term is for a term of 4 years or more, and
  - (d) the person has not previously been released from prison on licence in respect of that sentence.
- (3) The condition in this sub-paragraph is that the offence (or one of the offences) in respect of which the sentence was imposed is—
- (a) an offence specified in Schedule 15 (specified violent offences and specified sexual offences) as it had effect on 4 April 2005,
  - (b) an offence under any of sections 11, 12, 15 to 18, 54 and 56 to 63 of the Terrorism Act 2000,
  - (c) an offence under any of sections 47, 50 and 113 of the Anti-terrorism, Crime and Security Act 2001,
  - (d) an offence under section 12 of the Sexual Offences Act 1956,
  - (e) an offence of aiding, abetting counselling, procuring or inciting the commission of an offence listed in any of paragraphs (b) to (d), or
  - (f) an offence of conspiring or attempting to commit an offence listed in any of paragraphs (b) to (d).
- (4) The condition in this sub-paragraph is that the person has served one-half of the sentence or (in the case of a section 85 extended sentence) of the custodial term before 9 June 2008.
- (5) The condition in this sub-paragraph is that—
- (a) the person is serving the sentence by virtue of having been transferred to the United Kingdom in pursuance of a warrant under section 1 of the Repatriation of Prisoners Act 1984,
  - (b) the warrant was issued before 9 June 2008, and

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- (c) the offence (or one of the offences) for which the person is serving the sentence corresponds to murder or to any offence specified in Schedule 15 as it had effect on 4 April 2005.
- 5 (1) As soon as a person to whom paragraph 4 applies [<sup>F875</sup>(but to whom section 247A does not apply)] has served two-thirds of the sentence, it is the duty of the Secretary of State to release the person on licence under this paragraph.
- (2) If the person is serving a section 85 extended sentence, the reference in sub-paragraph (1) to two-thirds of the sentence is a reference to two-thirds of the custodial term.
- (3) Sub-paragraphs (1) and (2) apply in place of section 244 (release on licence of prisoners serving 12 months or more).
- [ Where section 247A applies to a person—
- <sup>F876</sup>(4) (a) to whom paragraph 4 also applies, and  
 (b) who is serving a section 85 extended sentence,  
 it does so with the modifications set out in sub-paragraphs (5) and (6).
- (5) Section 247A(7) applies to the person (despite subsection (6) of that section).
- (6) References in section 247A to—  
 (a) the “appropriate custodial term” are to be read as references to the custodial term;  
 (b) the “requisite custodial period” are to be read as references to two-thirds of the custodial term.]

#### Textual Amendments

**F875** Words in Sch. 20B para. 5(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 6\(2\)\(a\)](#), 10(4)

**F876** Sch. 20B para. 5(4)-(6) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 6\(2\)\(b\)](#), 10(4)

#### *Duty to release on direction of Parole Board*

- 6 (1) After a person to whom paragraph 4 applies [<sup>F877</sup>(but to whom section 247A does not apply)] has served one-half of the sentence, the Secretary of State must, if directed to do so by the Board, release the person on licence under this paragraph.
- (2) The Board must not give a direction under sub-paragraph (1) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
- (3) If the person is serving a section 85 extended sentence, the reference in sub-paragraph (1) to one-half of the sentence is a reference to one-half of the custodial term.
- (4) Sub-paragraphs (1) to (3) apply in place of section 244 (release on licence of prisoners serving 12 months or more).
- [ Paragraphs 38 and 39 contain provision that relates to the Board's function of giving
- <sup>F878</sup>(5) directions under sub-paragraph (2) for the release of a person.]

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### Textual Amendments

**F877** Words in Sch. 20B para. 6(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 6\(3\), 10\(4\)](#)

**F878** Sch. 20B para. 6(5) inserted (E.W.) (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\), ss. 2\(5\)\(a\), 3\(2\); S.I. 2020/1537, reg. 2](#)

#### *Release on licence at one-half of sentence: section 85 extended sentence prisoners*

- 7 (1) This paragraph applies to a person if—
- the person has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
  - the person is serving a section 85 extended sentence in respect of that offence,
  - the person has not previously been released from prison on licence in respect of that sentence, and
  - paragraph 4 does not apply to the person.
- 8 (1) As soon as a person to whom paragraph 7 applies has served one-half of the custodial term, it is the duty of the Secretary of State to release the person on licence under this paragraph.
- (2) Sub-paragraph (1) applies in place of section 243A or 244, as the case may be (release of prisoners serving less than 12 months, or serving 12 months or more).

#### *Duty to release unconditionally at three-quarters of sentence*

- 9 (1) This paragraph applies to a person if—
- the person has been convicted of an offence committed before 30 September 1998,
  - the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992,
  - the sentence is for a term of 12 months or more,
  - the person has been released on licence under Part 2 of the 1991 Act, and
  - the person has been recalled before 14 July 2008 (and has not been recalled after that date).
- (2) But this paragraph does not apply if the court by which the person was sentenced ordered that section 86 of the Sentencing Act (extension of periods in custody and on licence in the case of certain sexual offences) should apply.
- 10 As soon as a person to whom paragraph 9 applies would (but for the earlier release) have served three-quarters of the sentence, it is the duty of the Secretary of State to release the person unconditionally.

#### *Duty to release on licence at three-quarters of sentence*

- 11 (1) This paragraph applies to a person who—
- has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,

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- (b) is serving a sentence of imprisonment for a term of 12 months or more imposed in respect of that offence,
  - (c) has been released on licence under Part 2 of the 1991 Act, and
  - (d) has been recalled before 14 July 2008 (and has not been recalled after that date).
- (2) But this paragraph does not apply if the person has been released and recalled more than once.
- (3) Nor does this paragraph apply if the sentence is a section 85 extended sentence (paragraph 13 applying to such a case instead).
- 12 As soon as a person to whom paragraph 11 applies would (but for the earlier release) have served three-quarters of the sentence, it is the duty of the Secretary of State to release the person on licence.

*Release on licence: re-release of section 85 extended sentence prisoners*

- 13 (1) This paragraph applies to a person who—
- (a) has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
  - (b) is serving a section 85 extended sentence imposed in respect of that offence,
  - (c) has been released on licence under Part 2 of the 1991 Act, and
  - (d) has been recalled before 14 July 2008 (and has not been recalled after that date).
- (2) But this paragraph does not apply if the person has been released and recalled more than once.
- 14 (1) If a person to whom paragraph 13 applies is serving a sentence with a custodial term of less than 12 months, it is the duty of the Secretary of State to release the person on licence as soon as the person would (but for the earlier release) have served the period found by adding—
- (a) one-half of the custodial term, and
  - (b) the extension period.
- (2) If a person to whom paragraph 13 applies is serving a sentence with a custodial term of 12 months or more, it is the duty of the Secretary of State to release the person on licence as soon as the person would (but for the earlier release) have served the period found by adding—
- (a) three-quarters of the custodial term, and
  - (b) the extension period.

*Release of section 227 or 228 extended sentence prisoners: Parole Board direction*

- 15 (1) This paragraph applies to a person (“P”) who is serving an extended sentence imposed under section 227 or 228 before 14 July 2008.
- (2) [F879If section 247 (release of prisoner on licence) applies to P, it applies] with the following modifications.
- (3) The Secretary of State must not release P under subsection (2) of that section unless the Board has directed P’s release under that subsection.

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- (4) The Board must not give a direction under sub-paragraph (3) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
- (5) As soon as P has served the appropriate custodial term, the Secretary of State must release P on licence, unless P has previously been recalled under section 254.
- [ Paragraphs 38 and 39 contain provision that relates to the Board's function of giving  
F880(6) directions under sub-paragraph (4) for the release of a person.]

#### Textual Amendments

- F879** Words in Sch. 20B para. 15(2) substituted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 6\(4\), 10\(4\)](#)
- F880** Sch. 20B para. 15(6) inserted (E.W.) (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\), ss. 2\(5\)\(b\), 3\(2\); S.I. 2020/1537, reg. 2](#)

#### *Licence to remain in force to three-quarters of sentence*

- 16 (1) This paragraph applies to a person to whom paragraph 4 applies.
- (2) This paragraph also applies to a person if—
- the person has been convicted of an offence committed before 4 April 2005,
  - the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992 but before the commencement date,
  - that sentence is for a term of 12 months or more but less than 4 years, and
  - the person has not previously been released from prison on licence in respect of that sentence.
- (3) This paragraph also applies to a person if—
- the person has been convicted of an offence committed before 4 April 2005,
  - the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992,
  - that sentence is for a term of 12 months or more,
  - the person has been released on licence under Part 2 of the 1991 Act, and
  - the person has been recalled before 14 July 2008 (and has not been recalled after that date).
- (4) But this paragraph does not apply if the person has been released and recalled more than once.
- (5) Nor does this paragraph apply if—
- the person is serving a section 85 extended sentence, or
  - the court by which the person was sentenced ordered that section 86 of the Sentencing Act (extension of periods in custody and on licence in the case of certain sexual offences) should apply.
- (6) If a person has been—
- released under section 34A of the 1991 Act or section 246 (home detention curfew), and



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- (b) recalled under section 38A(1)(b) of the 1991 Act or section 255(1)(b) (no longer possible to monitor curfew),  
 the release and recall are to be disregarded for the purposes of this paragraph.
- 17 (1) Where a person to whom paragraph 16 applies is released on licence under section 244<sup>F881</sup>, 247A] or paragraph 5 or 6, the licence shall remain in force until the date on which the person would (but for the release) have served three-quarters of the sentence.
- [ But if section 247A would (disregarding this sub-paragraph) require the release on<sup>F882</sup>(1A) licence of a person to whom paragraph 16 applies at any time after the end of the period referred to in sub-paragraph (1)—
- (a) that requirement does not apply, and  
 (b) it is instead the duty of the Secretary of State to release the person unconditionally.]
- (2) Sub-paragraph (1) is subject to any revocation under section 254.
- (3) Sub-paragraphs [<sup>F883</sup>(1) to (2)] apply in place of section 249 (duration of licence).

#### Textual Amendments

- F881** Word in Sch. 20B para. 17(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 6\(5\)\(a\), 10\(4\)](#)
- F882** Sch. 20B para. 17(1A) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 6\(5\)\(b\), 10\(4\)](#)
- F883** Words in Sch. 20B para. 17(3) substituted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 6\(5\)\(c\), 10\(4\)](#)

#### *Period for which licence to remain in force: section 85 extended sentence prisoners*

- 18 This paragraph applies to a person who—
- (a) has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,  
 (b) is serving a section 85 extended sentence imposed in respect of that offence, and  
 (c) has not previously been released from prison on licence in respect of that sentence.
- 19 (1) Where a person to whom paragraph 18 applies is released on licence and the custodial term is less than 12 months, the licence shall remain in force until the end of the period found by adding—
- (a) one-half of the custodial term, and  
 (b) the extension period.
- (2) Where a person to whom paragraph 18 applies is released on licence and the custodial term is 12 months or more, the licence shall remain in force until the end of [<sup>F884</sup>the relevant period].
- (3) Sub-paragraphs (1) and (2) are subject to any revocation under section 254.
- (4) Sub-paragraphs (1) to (3) apply in place of section 249 (duration of licence).

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- [ In sub-paragraph (2), “the relevant period”—
- <sup>F885</sup>(5) (a) in relation to a person released on licence under section 247A at any time after the end of the period of three-quarters of the custodial term, means the period found by adding—
- (i) the proportion of the custodial term served before release, and
  - (ii) the extension period;
- (b) in relation to any other case, means the period found by adding—
- (i) three-quarters of the custodial term, and
  - (ii) the extension period.]

#### Textual Amendments

- F884** Words in Sch. 20B para. 19(2) substituted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 6\(6\)\(a\), 10\(4\)](#)
- F885** Sch. 20B para. 19(5) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 6\(6\)\(b\), 10\(4\)](#)

#### *Concurrent or consecutive terms*

- 20 Paragraphs 21 and 22 apply where a person (“P”) is serving two or more sentences of imprisonment imposed on or after 1 October 1992 and—
- (a) the sentences were passed on the same occasion, or
  - (b) where they were passed on different occasions, the person has not been released under Part 2 of the 1991 Act or under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- 21 (1) This paragraph applies if each of the sentences is a 1991 Act sentence.
- (2) Sections 263 and 264 (consecutive and concurrent terms) do not apply in relation to the sentences.
- (3) For the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which P has been sentenced or which, or part of which, P has served, the terms are to be treated as a single term.
- (4) If one or more of the sentences is a section 85 extended sentence—
- (a) for the purpose of determining the single term mentioned in sub-paragraph (3), the extension period or periods is or are to be disregarded, and
  - (b) the period for which P is to be on licence in respect of the single term is to be increased in accordance with sub-paragraph (5).
- (5) That period is to be increased—
- (a) if only one of the sentences is a section 85 extended sentence, by the extension period;
  - (b) if there is more than one such sentence and they are wholly or partly concurrent, by the longest of the extension periods;
  - (c) if there is more than one such sentence and they are consecutive, by the aggregate of the extension periods.

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- 22 (1) This paragraph applies where two or more sentences are to be served consecutively on each other and—
- (a) one or more of those sentences is a 1991 Act sentence, and
  - (b) one or more of them is a 2003 Act sentence.
- (2) Section 264 does not affect the length of the period which P must serve in prison in respect of the 1991 Act sentence or sentences.
- (3) Nothing in this Chapter requires the Secretary of State to release P until P has served a period equal in length to the aggregate of the length of the periods which P must serve in relation to each of the sentences mentioned in sub-paragraph (1).
- [ If P is subject to supervision requirements under section 256AA (by virtue of <sup>F886</sup>(3A) section 264(3C)(b)), section 256AA(4)(b) (end of supervision period) applies in relation to P as if the reference to the requisite custodial period were to the period described in sub-paragraph (3) of this paragraph.]
- (4) If P is also serving one or more 1967 Act sentences, paragraphs 32 and 33 apply instead of this paragraph.

#### **Textual Amendments**

**F886** Sch. 20B para. 22(3A) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), ss. 5(7), 22(1) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(e)

### **PART 3**

#### PRISONERS SERVING 1967 ACT SENTENCES

- 23 (1) This Part applies to certain persons serving a 1967 Act sentence.
- (2) But this Part does not apply to a person who—
- (a) has been released on licence,
  - (b) has been recalled to prison, and
  - (c) (whether or not having returned to custody in consequence of that recall) is unlawfully at large on the commencement date.
- (3) In this Part, references to release under Part 2 of the 1991 Act include release under section 60 of the 1967 Act.

#### *Sentence of more than 12 months imposed before 1 October 1992*

- 24 (1) This paragraph applies to a person if—
- (a) the person is serving a sentence of imprisonment imposed before 1 October 1992,
  - (b) the sentence is for a term of more than 12 months, and
  - (c) the person has not previously been released from prison on licence in respect of that sentence.
- (2) This paragraph also applies to a person if—
- (a) the person is serving a sentence of imprisonment imposed before 1 October 1992,

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- (b) the sentence is for a term of more than 12 months,
  - (c) the person has been released on licence under Part 2 of the 1991 Act, and
  - (d) the person has been recalled before 14 July 2008 (and has not been recalled after that date).
- (3) But this paragraph does not apply if, on the passing of the sentence, an extended sentence certificate was issued (see paragraph 27).
- (4) If a person has been—
- (a) released under section 34A of the 1991 Act or section 246 (home detention curfew), and
  - (b) recalled under section 38A(1)(b) of the 1991 Act or section 255(1)(b) (no longer possible to monitor curfew),
- the release and recall are to be disregarded for the purposes of this paragraph.
- 25 (1) It is the duty of the Secretary of State to release a person to whom paragraph 24 applies unconditionally under this paragraph—
- (a) in the case of a person falling within paragraph 24(1), as soon as the person has served two-thirds of the sentence;
  - (b) in the case of a person falling within paragraph 24(2), as soon as the person would (but for the earlier release) have served two-thirds of the sentence.
- (2) After a person falling within paragraph 24(1) has served one-third of the sentence or six months, whichever is longer, the Secretary of State must, if directed to do so by the Board, release the person on licence under this paragraph.
- (3) The Board must not give a direction under sub-paragraph (2) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
- (4) Sub-paragraphs (1) to (3) apply in place of section 244 (release on licence of prisoners serving 12 months or more).
- [ Paragraphs 38 and 39 contain provision that relates to the Board's function of giving <sup>F887</sup>(5) directions under sub-paragraph (3) for the release of a person.]

#### Textual Amendments

**F887** Sch. 20B para. 25(5) inserted (E.W.) (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\)](#), ss. **2(5)(c)**, 3(2); S.I. 2020/1537, reg. 2

- 26 (1) Where a person to whom paragraph 24 applies is released on licence under paragraph 25(2), the licence shall remain in force until the date on which the person would (but for the release) have served two-thirds of the sentence.
- (2) Sub-paragraph (1) is subject to any revocation under section 254.
- (3) Sub-paragraphs (1) and (2) apply in place of section 249 (duration of licence).

*Extended sentence of more than 12 months imposed before 1 October 1992*

- 27 (1) This paragraph applies to a person if—
- (a) the person is serving a sentence of imprisonment imposed before 1 October 1992,

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- (b) the sentence is for a term of more than 12 months,
  - (c) on the passing of the sentence an extended sentence certificate was issued, and
  - (d) the person has not previously been released from prison on licence in respect of that sentence.
- (2) This paragraph also applies to a person if—
- (a) the person is serving a sentence of imprisonment imposed before 1 October 1992,
  - (b) the sentence is for a term of more than 12 months,
  - (c) on the passing of the sentence an extended sentence certificate was issued,
  - (d) the person has been released on licence under Part 2 of the 1991 Act, and
  - (e) the person has been recalled before 14 July 2008 (and has not been recalled after that date).
- (3) In this paragraph “extended sentence certificate” means a certificate was issued under section 28 of the Powers of Criminal Courts Act 1973 (punishment of persistent offenders) stating that an extended term of imprisonment was imposed on the person under that section.
- 28 (1) It is the duty of the Secretary of State to release a person to whom paragraph 27 applies on licence under this paragraph—
- (a) in the case of a person falling within paragraph 27(1), as soon as the person has served two-thirds of the sentence;
  - (b) in the case of a person falling within paragraph 27(2), as soon as the person would (but for the earlier release) have served two-thirds of the sentence.
- (2) After a person falling within paragraph 27(1) has served one-third of the sentence or six months, whichever is longer, the Secretary of State must, if directed to do so by the Board, release the person on licence under this paragraph.
- (3) The Board must not give a direction under sub-paragraph (2) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
- (4) Sub-paragraphs (1) to (3) apply in place of section 244 (release on licence of prisoners serving twelve months or more).

*Additional days*

- 29 (1) Prison rules made by virtue of section 257 may include provision for applying any provisions of this Chapter, in relation to any person falling within sub-paragraph (2), as if the person had been awarded such number of additional days as may be determined by or under the rules.
- (2) A person falls within this sub-paragraph if—
- (a) the person was released on licence under section 60 of the 1967 Act before 1 October 1992 and the licence was in force on that date, or
  - (b) the person was, on that date, serving a custodial sentence, and (in either case) the person has forfeited any remission of the sentence.

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*Concurrent or consecutive terms*

- 30 Paragraphs 31 to 33 apply where a person (“P”) is serving two or more sentences of imprisonment and—
- (a) the sentences were passed on the same occasion, or
  - (b) where they were passed on different occasions, the person has not been released under Part 2 of the 1991 Act or under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- 31 (1) This paragraph applies where each of the sentences is a 1967 Act sentence.
- (2) Sections 263 and 264 (consecutive and concurrent terms) do not apply in relation to the sentences.
- (3) For the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which P has been sentenced or which, or part of which, P has served, the terms are to be treated as a single term.
- 32 (1) This paragraph applies where—
- (a) one or more of the sentences is a 1967 Act sentence, and
  - (b) one or more of them is a 1991 Act sentence.
- (2) Sections 263 and 264 (consecutive and concurrent terms) do not apply in relation to the sentences mentioned in sub-paragraph (1).
- (3) For the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which P has been sentenced or which, or part of which, P has served—
- (a) the terms mentioned in sub-paragraph (1) are to be treated as a single term, and
  - (b) that single term is to be treated as if it were a 1967 Act sentence.
- (4) If one or more of the sentences is a section 85 extended sentence—
- (a) for the purpose of determining the single term mentioned in sub-paragraph (3), the extension period or periods is or are to be disregarded, and
  - (b) the period for which P is to be on licence in respect of the single term is to be increased in accordance with sub-paragraph (5).
- (5) That period is to be increased—
- (a) if only one of the sentences is a section 85 extended sentence, by the extension period;
  - (b) if there is more than one such sentence and they are wholly or partly concurrent, by the longest of the extension periods;
  - (c) if there is more than one such sentence and they are consecutive, by the aggregate of the extension periods.
- (6) If P is also serving a 2003 Act sentence, sub-paragraph (3) is to be applied before the period mentioned in section 263(2)(c) (concurrent terms) or paragraph 33(3) (consecutive terms) is calculated.
- 33 (1) This paragraph applies where two or more sentences are to be served consecutively on each other and—
- (a) one or more of those sentences is a 1967 Act sentence, and
  - (b) one or more of them is a 2003 Act sentence.

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- (2) Section 264 does not affect the length of the period which P must serve in prison in respect of the 1967 Act sentence or sentences.
- (3) Nothing in this Chapter requires the Secretary of State to release P until P has served a period equal in length to the aggregate of the length of the periods which P must serve in relation to each of the sentences mentioned in sub-paragraph (1).
- [ If P is subject to supervision requirements under section 256AA (by virtue of <sup>F888</sup>(4) section 264(3C)(b)), section 256AA(4)(b) (end of supervision period) applies in relation to P as if the reference to the requisite custodial period were to the period described in sub-paragraph (3) of this paragraph.]

#### Textual Amendments

**F888** Sch. 20B para. 33(4) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 5(8)**, 22(1) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(e)

## PART 4

### PROVISIONS APPLYING GENERALLY

#### *Licence conditions*

- 34 (1) This paragraph applies to any licence (a “Parole Board licence”) which falls within sub-paragraph (2) or (3) [<sup>F889</sup>and which was granted to a person serving—
- (a) a 1967 Act sentence,
  - (b) a 1991 Act sentence, or
  - (c) a 2003 Act sentence which is an extended sentence imposed under section 227 or 228 before 14 July 2008.]
- (2) A licence falls within this sub-paragraph if—
- (a) it is or was granted to a person (“P”) on P’s release (at any time) on the recommendation or direction of the Board, and
  - (b) P has not been released otherwise than on such a recommendation or direction.
- (3) A licence falls within this sub-paragraph if—
- (a) it is or was granted to a person (“P”) on P’s release (at any time), and
  - (b) condition A or condition B is met.
- (4) Condition A is that, before 2 August 2010, the Board exercised the function under section 37(5) of the 1991 Act of making recommendations as to any condition to be included or inserted as a condition in a licence granted to P (including by making a recommendation that no condition should be included in such a licence).
- (5) Condition B is that, before 2 August 2010—
- (a) P was released on licence under section 33(2), (3) or (3A) or 35(1) of the 1991 Act, and
  - (b) the Board exercised the function under section 37(5) of that Act of—

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- (i) making recommendations as to the inclusion or insertion of a condition in a licence granted to P (including by making a recommendation that no condition should be included in such a licence), or
  - (ii) making recommendations as to the variation or cancellation of any such condition (including a recommendation that the condition should not be varied or cancelled).
- (6) The Secretary of State must not—
- (a) include on release, or subsequently insert, a condition [<sup>F890</sup>referred to in section 250(4)(b)(ii)] in a Parole Board licence, or
  - (b) vary or cancel any such condition,
- except in accordance with directions of the Board.

#### Textual Amendments

**F889** Words in Sch. 20B para. 34(1) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 15\(9\)\(a\)](#), [95\(1\)](#); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 11](#)

**F890** Words in Sch. 20B para. 34(6)(a) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 15\(9\)\(b\)](#), [95\(1\)](#); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 11](#)

#### *Fine defaulters and contemnors*

- 35 (1) This paragraph applies to any person if—
- (a) the person has been committed to prison or to be detained under section 108 of the Sentencing Act—
    - (i) in default of payment of a sum adjudged to be paid by a conviction, or
    - (ii) for contempt of court or any kindred offence,
  - (b) the person was so committed or detained before 4 April 2005, and
  - (c) the term for which the person was committed or detained is 12 months or more.
- (2) As soon as a person to whom this paragraph applies has served two-thirds of the term, it is the duty of the Secretary of State to release the person unconditionally.
- (3) Sub-paragraph (2) applies in place of section 258(2) (early release of fine defaulters and contemnors).

#### *Early removal of prisoners liable to removal from UK*

- 36 (1) This paragraph applies to any person who—
- (a) has served one-half of a sentence of imprisonment, and
  - (b) has not been released on licence under this Chapter.
- (2) The reference in sub-paragraph (1)(a) to one-half of a sentence is—
- (a) in the case of a section 85 extended sentence, a reference to one-half of the custodial term;
  - (b) in the case of an extended sentence imposed under section 227 or 228, a reference to one-half of the appropriate custodial term.



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- 37 (1) If a person to whom paragraph 36 applies—
- (a) is liable to removal from the United Kingdom, and
  - (b) has not been removed from prison under section 260 during the period mentioned in subsection (1) of that section,
- the Secretary of State may remove the person from prison under that section at any time after the end of that period.
- (2) Sub-paragraph (1) applies whether or not the Board has directed the person's release under paragraph 6, 15, 25 or 28.]

*[<sup>F891</sup>Manslaughter: prisoner's non disclosure of information*

**Textual Amendments**

**F891** Sch. 20B paras. 38, 39 and cross-headings inserted (E.W.) (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\)](#), **ss. 2(4), 3(2)**; S.I. 2020/1537, reg. 2

- 38 (1) The Board must comply with this paragraph when making a public protection decision about a prisoner if—
- (a) the prisoner's sentence was passed for manslaughter;
  - (b) the Board does not know where and how the victim's remains were disposed of; and
  - (c) the Board believes that the prisoner has information about where, or how, the victim's remains were disposed of (whether the information relates to the actions of the prisoner or any other individual) which the prisoner has not disclosed to the Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
- (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Board's view, for the prisoner's non-disclosure.
- (3) This paragraph does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In this paragraph, in relation to a prisoner—
- “public protection decision” means the decision made—
    - (a) under paragraph 6(2) for the purposes of paragraph 6(1),
    - (b) under paragraph 15(4) for the purposes of paragraph 15(3), or
    - (c) under paragraph 25(3) for the purposes of paragraph 25(2),
- as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;
- “victim” means the victim of the offence for which the prisoner's sentence was passed;
- and a reference to the victim's remains being disposed of includes the remains being left at the location where the victim died.

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*Indecent images: prisoner's non-disclosure of information*

- 39 (1) The Board must comply with this paragraph when making a public protection decision about a prisoner if—
- (a) the prisoner's sentence was passed for—
    - (i) an offence of taking an indecent photograph of a child, or
    - (ii) a relevant offence of making an indecent pseudo-photograph of a child;
  - (b) the Board does not know the identity of the child who is the subject of the relevant indecent image; and
  - (c) the Board believes that the prisoner has information about the identity of the child who is the subject of the relevant indecent image which the prisoner has not disclosed to the Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
- (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Board's view, for the prisoner's non-disclosure.
- (3) This paragraph does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) For the purposes of this paragraph an offence is—
- (a) an “offence of taking an indecent photograph of a child” if it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of taking an indecent photograph of a child;
  - (b) a “relevant offence of making an indecent pseudo-photograph of a child” if—
    - (i) it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child, and
    - (ii) the Board believes that an image of a real child was or may have been used in the making of the pseudo-photograph;
- and, in the application of this section to an offence of making an indecent pseudo-photograph of a child, the references in sub-paragraph (1)(b) and (c) to the child who is the subject of the relevant indecent image are references to the actual child.
- (5) In this paragraph—
- “public protection decision”, in relation to a prisoner, means the decision made—
    - (a) under paragraph 6(2) for the purposes of paragraph 6(1),
    - (b) under paragraph 15(4) for the purposes of paragraph 15(3), or
    - (c) under paragraph 25(3) for the purposes of paragraph 25(2),
- as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;
- “relevant indecent image” means—
    - (a) the photograph to which an offence of taking an indecent photograph of a child relates, or
    - (b) the pseudo-photograph to which a relevant offence of making an indecent pseudo-photograph of a child relates.]

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F892 SCHEDULE 21

Section 269(5)

**Textual Amendments**

**F892** Sch. 21 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

SCHEDULE 22

Section 276

MANDATORY LIFE SENTENCES: TRANSITIONAL CASES

*Interpretation*

- 1 In this Schedule—
- “the commencement date” means the day on which section 269 comes into force;
  - “the early release provisions” means the provisions of section 28(5) to (8) of the Crime (Sentences) Act 1997 (c. 43);
  - “existing prisoner” means a person serving one or more mandatory life sentences passed before the commencement date (whether or not he is also serving any other sentence);
  - “life sentence” means a sentence of imprisonment for life or custody for life passed in England and Wales or by a court-martial outside England and Wales;
  - “mandatory life sentence” means a life sentence passed in circumstances where the sentence was fixed by law.

*Existing prisoners notified by Secretary of State*

- 2 Paragraph 3 applies in relation to any existing prisoner who, in respect of any mandatory life sentence, has before the commencement date been notified in writing by the Secretary of State (otherwise than in a notice that is expressed to be provisional) either—
- (a) of a minimum period which in the view of the Secretary of State should be served before the prisoner’s release on licence, or
  - (b) that the Secretary of State does not intend that the prisoner should ever be released on licence.
- 3 (1) On the application of the existing prisoner, the High Court must, in relation to the mandatory life sentence, either—
- (a) order that the early release provisions are to apply to him as soon as he has served the part of the sentence which is specified in the order, which in a case falling within paragraph 2(a) must not be greater than the notified minimum term, or
  - (b) in a case falling within paragraph 2(b), order that the early release provisions are not to apply to the offender.

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- (2) In a case falling within paragraph 2(a), no application may be made under this paragraph after the end of the notified minimum term.
- (3) Where no application under this paragraph is made in a case falling within paragraph 2(a), the early release provisions apply to the prisoner in respect of the sentence as soon as he has served the notified minimum term (or, if he has served that term before the commencement date but has not been released, from the commencement date).
- (4) In this paragraph “the notified minimum term” means the minimum period notified as mentioned in paragraph 2(a), or where the prisoner has been so notified on more than one occasion, the period most recently so notified.
- 4 (1) In dealing with an application under paragraph 3, the High Court must have regard to—
- (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it,
  - (b) where the court is satisfied that, if the prisoner had been sentenced to a term of imprisonment, the length of his sentence would have been treated by section 67 of the Criminal Justice Act 1967 (c. 80) as being reduced by a particular period, the effect which that section would have had if he had been sentenced to a term of imprisonment, and
  - (c) the length of the notified minimum term or, where a notification falling within paragraph 2(b) has been given to the prisoner, to the fact that such a notification has been given.
- (2) In considering under sub-paragraph (1) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it, the High Court must have regard to—
- (a) the general principles set out in Schedule 21, and
  - (b) any recommendation made to the Secretary of State by the trial judge or the Lord Chief Justice as to the minimum term to be served by the offender before release on licence.
- (3) In this paragraph “the notified minimum term” has the same meaning as in paragraph 3.

*Existing prisoners not notified by Secretary of State*

- 5 Paragraph 6 applies in relation to any existing prisoner who, in respect of any mandatory life sentence, has not before the commencement date been notified as mentioned in paragraph 2(a) or (b) by the Secretary of State.
- 6 The Secretary of State must refer the prisoner’s case to the High Court for the making by the High Court of an order under subsection (2) or (4) of section 269 in relation to the mandatory life sentence.
- 7 In considering under subsection (3) or (4) of section 269 the seriousness of an offence (or the combination of an offence and one or more offences associated with it) in a case referred to the High Court under paragraph 6, the High Court must have regard not only to the matters mentioned in subsection (5) of that section but also to any recommendation made to the Secretary of State by the trial judge or the Lord Chief Justice as to the minimum term to be served by the offender before release on licence.
- 8 In dealing with a reference under paragraph 6, the High Court—

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- (a) may not make an order under subsection (2) of section 269 specifying a part of the sentence which in the opinion of the court is greater than that which, under the practice followed by the Secretary of State before December 2002, the Secretary of State would have been likely to notify as mentioned in paragraph 2(a), and
- (b) may not make an order under subsection (4) of section 269 unless the court is of the opinion that, under the practice followed by the Secretary of State before December 2002, the Secretary of State would have been likely to give the prisoner a notification falling within paragraph 2(b).

*Sentences passed on or after commencement date  
in respect of offences committed before that date*

F893<sup>9</sup> .....

**Textual Amendments**

**F893** Sch. 22 para. 9 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

F894<sup>10</sup> .....

**Textual Amendments**

**F894** Sch. 22 para. 10 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

*Proceedings in High Court*

- 11 (1) An application under paragraph 3 or a reference under paragraph 6 is to be determined by a single judge of the High Court without an oral hearing.
- (2) In relation to such an application or reference, any reference to “the court” in section 269(2) to (5) and Schedule 21 is to be read as a reference to the High Court.

*Giving of reasons*

- 12 (1) Where the High Court makes an order under paragraph 3(1)(a) or (b), it must state in open court, in ordinary language, its reasons for deciding on the order made.
- (2) Where the order is an order under paragraph 3(1)(a) specifying a part of the sentence shorter than the notified minimum term the High Court must, in particular, state its reasons for departing from the notified minimum term.
- 13 Where the High Court makes an order under subsection (2) or (4) of section 269 on a reference under paragraph 6, subsection (2) of section 270 does not apply.

*Right of appeal*

- 14 (1) A person who has made an application under paragraph 3 or in respect of whom a reference has been made under paragraph 6 may with the leave of the Court of

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Appeal appeal to the Court of Appeal against the decision of the High Court on the application or reference.

- (2) Section 1(1) of the Administration of Justice Act 1960 (c. 65) (appeal to [<sup>F895</sup>Supreme Court] from decision of High Court in a criminal cause or matter) and section 18(1) (a) of the Supreme Court Act 1981 (c. 54) (exclusion of appeal from High Court to Court of Appeal in a criminal cause or matter) do not apply in relation to a decision to which sub-paragraph (1) applies.
- (3) The jurisdiction conferred on the Court of Appeal by this paragraph is to be exercised by the criminal division of that court.
- (4) Section 33(3) of the Criminal Appeal Act 1968 (c. 19) (limitation on appeal from criminal division of Court of Appeal) does not prevent an appeal to the [<sup>F895</sup>Supreme Court] under this paragraph.
- (5) In relation to appeals to the Court of Appeal or the [<sup>F895</sup>Supreme Court] under this paragraph, the Secretary of State may make an order containing provision corresponding to any provision in the Criminal Appeal Act 1968 (subject to any specified modifications).

#### Textual Amendments

**F895** Words in Sch. 22 para. 14(2)(4)(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(6\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

#### *Review of minimum term on reference by Attorney General*

- 15 Section 36 of the Criminal Justice Act 1988 (c. 33) applies in relation to an order made by the High Court under paragraph 3(1)(a) as it applies in relation to an order made by the Crown Court under section 269(2).

#### *Modification of early release provisions*

- 16 (1) In relation to an existing prisoner, section 28 of the Crime (Sentences) Act 1997 (c. 43) has effect subject to the following modifications.
- (2) Any reference to a life prisoner in respect of whom a minimum term order has been made includes a reference to—
    - (a) an existing prisoner in respect of whom an order under paragraph 3(1)(a) has been made, and
    - (b) an existing prisoner serving a sentence in respect of which paragraph 3(3) applies.
  - (3) Any reference to the relevant part of the sentence is to be read—
    - (a) in relation to a sentence in respect of which an order under paragraph 3(1) (a) has been made, as a reference to the part specified in the order, and
    - (b) in relation to a sentence in respect of which paragraph 3(3) applies, as a reference to the notified minimum term as defined by paragraph 3(4).
  - (4) In subsection (1B) (life prisoner serving two or more sentences), paragraph (a) is to be read as if it referred to each of the sentences being one—

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- (a) in respect of which a minimum term order or an order under paragraph 3(1) (a) has been made, or
  - (b) in respect of which paragraph 3(3) applies.
- 17 In section 34(1) of the Crime (Sentences) Act 1997 (c. 43) (interpretation of Chapter 2 of that Act), in the definition of “life prisoner”, the reference to a transferred prisoner as defined by section 273 of this Act includes a reference to an existing prisoner who immediately before the commencement date is a transferred life prisoner for the purposes of section 33 of that Act.

*Transferred life prisoners*

- 18 In relation to an existing prisoner who immediately before the commencement date is a transferred life prisoner for the purposes of section 33 of the Crime (Sentences) Act 1997, this Schedule is to be read as if—
- (a) any certificate under subsection (2) of that section were a notification falling within paragraph 2(a) of this Schedule, and
  - (b) references to any recommendation of the trial judge or the Lord Chief Justice were omitted.

F896 SCHEDULE 23

Section 278

**Textual Amendments**

**F896** Sch. 23 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**

F897F897 SCHEDULE 24

**Textual Amendments**

**F897** Sch. 24 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 97, **Sch. 28 Pt. 1** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xv)(u)(xxxi)**

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## SCHEDULE 25

Section 280(1)

### SUMMARY OFFENCES NO LONGER PUNISHABLE WITH IMPRISONMENT

#### PROSPECTIVE

##### *Vagrancy Act 1824 (c. 83)*

- 1 The offence under section 3 of the Vagrancy Act 1824 (idle and disorderly persons) of causing or procuring or encouraging any child or children to wander abroad, or place himself or herself in any public place, street, highway, court, or passage, to beg or gather alms.
- 2 The following offences under section 4 of that Act (rogues and vagabonds)—
  - (a) the offence of going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions of any nature or kind, under any false or fraudulent pretence,
  - (b) the offence of being found in or upon any dwelling house, warehouse, coach-house, stable, or outhouse, or in any inclosed yard, garden, or area, for any unlawful purpose, and
  - (c) the offence of being apprehended as an idle and disorderly person, and violently resisting any constable, or other peace officer so apprehending him or her, and being subsequently convicted of the offence for which he or she shall have been so apprehended.

#### PROSPECTIVE

##### *Railway Regulation Act 1842 (c. 55)*

- 3 An offence under section 17 of the Railway Regulation Act 1842 (punishment of railway employees guilty of misconduct).

#### PROSPECTIVE

##### *London Hackney Carriages Act 1843 (c. 86)*

- 4 An offence under section 28 of the London Hackney Carriages Act 1843 (punishment for furious driving etc.).

#### PROSPECTIVE

##### *Town Police Clauses Act 1847 (c. 89)*

- 5 An offence under section 26 of the Town Police Clauses Act 1847 (unlawful release of impounded stray cattle).
- 6 An offence under section 28 of that Act (offences relating to obstructions and nuisances).



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7 An offence under section 29 of that Act (drunken persons, etc. guilty of violent or indecent behaviour).

8 An offence under section 36 of that Act (keeping places for bear-baiting, cock-fighting etc.).

PROSPECTIVE

*Ecclesiastical Courts Jurisdiction Act 1860 (c. 32)*

9 An offence under section 2 of the Ecclesiastical Courts Jurisdiction Act 1860 (making a disturbance in churches, chapels, churchyards, etc.).

PROSPECTIVE

*Town Gardens Protection Act 1863 (c. 13)*

10 An offence under section 5 of the Town Gardens Protection Act 1863 (injuring gardens).

PROSPECTIVE

*Public Stores Act 1875 (c. 25)*

11 An offence under section 8 of the Public Stores Act 1875 (sweeping, etc., near dockyards, artillery ranges, etc.).

PROSPECTIVE

*North Sea Fisheries Act 1893 (c. 17)*

12 **F898** .....

**Textual Amendments**  
**F898** Sch. 25 para. 12 repealed (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 321, 324, [Sch. 22 Pt. 5\(C\)](#); S.I. 2010/298, [arts. 2\(2\)](#), 3, Sch. para. 12

13 **F899** .....

**Textual Amendments**  
**F899** Sch. 25 para. 13 repealed (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 321, 324, [Sch. 22 Pt. 5\(C\)](#); S.I. 2010/298, [arts. 2\(2\)](#), 3, Sch. para. 12

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PROSPECTIVE

*Seamen's and Soldiers' False Characters Act 1906 (c. 5)*

14            **F900** .....

**Textual Amendments**

**F900** Sch. 25 para. 14 repealed (21.7.2008) by [Statute Law \(Repeals\) Act 2008 \(c. 12\), s. 1\(1\)](#), {Sch. 1 Pt. 1 Group 4}

PROSPECTIVE

*Aliens Restriction (Amendment) Act 1919 (c. 92)*

15            An offence under section 3(2) of the Aliens Restriction (Amendment) Act 1919 (promoting industrial unrest).

PROSPECTIVE

*Children and Young Persons Act 1933 (c. 12)*

16            An offence under section 4 of the Children and Young Persons Act 1933 (causing or allowing persons under sixteen to be used for begging).

PROSPECTIVE

*Protection of Animals Act 1934 (c. 21)*

17            An offence under section 2 of the Protection of Animals Act 1934 (offences relating to the prohibition of certain public contests, performances, and exhibitions with animals).

PROSPECTIVE

*Public Health Act 1936 (c. 49)*

18            An offence under section 287 of the Public Health Act 1936 (power to enter premises).

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## PROSPECTIVE

*Essential Commodities Reserves Act 1938 (c. 51)*

- 19 An offence under section 4(2) of the Essential Commodities Reserves Act 1938 (enforcement).

## PROSPECTIVE

*London Building Acts (Amendment) Act 1939 (c. xcvi)*

- 20 An offence under section 142 of the London Building Acts (Amendment) Act 1939 (power of Council and others to enter buildings etc).

## PROSPECTIVE

*Cancer Act 1939 (c. 13)*

- 21 An offence under section 4 of the Cancer Act 1939 (prohibition of certain advertisements).

## PROSPECTIVE

*Civil Defence Act 1939 (c. 31)*

- 22 An offence under section 77 of the Civil Defence Act 1939 (penalty for false statements).

## PROSPECTIVE

*Hill Farming Act 1946 (c. 73)*

- 23 An offence under section 19(2) or (3) of the Hill Farming Act 1946 (offences in relation to the control of rams).

## PROSPECTIVE

*Polish Resettlement Act 1947 (c. 19)*

- 24 An offence under paragraph 7 of the Schedule to the Polish Resettlement Act 1947 (false representation or making a false statement).

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PROSPECTIVE

*Agriculture Act 1947 (c. 48)*

25 An offence under section 14(7) of the Agriculture Act 1947, as remaining in force for the purposes of section 95 of that Act, (directions to secure good estate management and good husbandry).

26 An offence under section 95 of that Act (failure to comply with a direction to secure production).

PROSPECTIVE

*Civil Defence Act 1948 (c. 5)*

27 An offence under section 4 of the Civil Defence Act 1948 (powers as to land).

PROSPECTIVE

*Agricultural Wages Act 1948 (c. 47)*

28 [<sup>F901</sup>An offence under section 12 of the Agricultural Wages Act 1948 (hindering investigation of complaints etc.).]

**Textual Amendments**

**F901** Sch. 25 para. 28 repealed (1.10.2013 for E.) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 20 para. 2](#); S.I. 2013/1455, art. 3(b), [Sch. 2](#) (with art. 4(2)(4)) (as amended (7.9.2013) by S.I. 2013/2271, art. 2)

PROSPECTIVE

*Wireless Telegraphy Act 1949 (c. 54)*

29 <sup>F902</sup> .....

**Textual Amendments**

**F902** Sch. 25 para. 29 repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 125(1), 126, [Sch. 9 Pt. 1](#) (with [Sch. 8 Pt. 1](#))

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PROSPECTIVE

*Prevention of Damage by Pests Act 1949 (c. 55)*

30 An offence under section 22(5) of the Prevention of Damage by Pests Act 1949 (wrongful disclosure of information).

PROSPECTIVE

*Coast Protection Act 1949 (c. 74)*

31 An offence under section 25(9) of the Coast Protection Act 1949 (powers of entry and inspection).

PROSPECTIVE

*Pet Animals Act 1951 (c. 35)*

32 An offence under the Pet Animals Act 1951 (offences relating to licensing of pet shops and the sale of pets), other than one under section 4 of that Act.

PROSPECTIVE

*Cockfighting Act 1952 (c. 59)*

33 An offence under section 1 of the Cockfighting Act 1952 (possession of appliances for use in fighting of domestic fowl).

PROSPECTIVE

*Agricultural Land (Removal of Surface Soil) Act 1953 (c. 10)*

34 An offence under the Agricultural Land (Removal of Surface Soil) Act 1953 (removal of surface soil without planning permission).

PROSPECTIVE

*Accommodation Agencies Act 1953 (c. 23)*

35 An offence under section 1 of the Accommodation Agencies Act 1953 (illegal commissions and advertisements).

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PROSPECTIVE

*Army Act 1955 (3 & 4 Eliz. 2 c. 18)*

36 F903 .....

**Textual Amendments**

**F903** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

37 F904 .....

**Textual Amendments**

**F904** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

38 F905 .....

**Textual Amendments**

**F905** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

39 F906 .....

**Textual Amendments**

**F906** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

40 F907 .....

**Textual Amendments**

**F907** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

41 F908 .....

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**Textual Amendments**

**F908** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

42 **F909** .....

**Textual Amendments**

**F909** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

*Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)*

43 **F910** .....

**Textual Amendments**

**F910** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

44 **F911** .....

**Textual Amendments**

**F911** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

45 **F912** .....

**Textual Amendments**

**F912** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

46 **F913** .....

**Textual Amendments**

**F913** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

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47 F914 .....

**Textual Amendments**

**F914** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#)

48 F915 .....

**Textual Amendments**

**F915** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

49 F916 .....

**Textual Amendments**

**F916** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

*Naval Discipline Act 1957 (c. 53)*

50 F917 .....

**Textual Amendments**

**F917** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

51 F918 .....

**Textual Amendments**

**F918** Sch. 25 paras. 36-51 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

PROSPECTIVE

*Agricultural Marketing Act 1958 (c. 47)*

52 An offence under section 45 of the Agricultural Marketing Act 1958 (failure to comply with demand for information or knowingly making any false statement in reply thereto).



**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

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PROSPECTIVE

*Rivers (Prevention of Pollution) Act 1961 (c. 50)*

- 53 An offence under section 12(1) of the Rivers (Prevention of Pollution) Act 1961 (restriction of disclosure of information).

PROSPECTIVE

*Betting, Gaming and Lotteries Act 1963 (c. 2)*

- 54 **F919** .....

**Textual Amendments**

**F919** Sch. 25 para. 54 repealed (1.9.2007) by [Gambling Act 2005 \(c. 19\)](#), ss. 356(4), 358, [Sch. 17](#) (with ss. 352, 354); S.I. 2006/3272, [art. 2\(4\)](#) (with [art. 6](#), [Sch. 4](#))

PROSPECTIVE

*Children and Young Persons Act 1963 (c. 37)*

- 55 An offence under section 40 of the Children and Young Persons Act 1963 (offences relating to persons under 16 taking part in public performances etc.).

PROSPECTIVE

*Animal Boarding Establishments Act 1963 (c. 43)*

- 56 An offence under the Animal Boarding Establishments Act 1963 (offences in connection with the licensing and inspection of boarding establishments for animals), other than an offence under section 2 of that Act.

PROSPECTIVE

*Agriculture and Horticulture Act 1964 (c. 28)*

- 57 An offence under Part 3 of the Agriculture and Horticulture Act 1964 (offences relating to the grading and transport of fresh horticultural produce), other than an offence under section 15(1) of that Act.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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PROSPECTIVE

58                    *Emergency Laws (Re-enactments and Repeals) Act 1964 (c. 60)*  
An offence under paragraph 1(3) or 2(4) of Schedule 1 to the Emergency Laws (Re-enactments and Repeals) Act 1964 (offences relating to the production of documents).

PROSPECTIVE

59                    *Riding Establishments Act 1964 (c. 70)*  
An offence under the Riding Establishments Act 1964 (offences relating to the keeping of riding establishments), other than an offence under section 2(4) of that Act.

PROSPECTIVE

F920 60                    *Industrial and Provident Societies Act 1965 (c. 12)*  
.....

**Textual Amendments**

F920 Sch. 25 para. 60 repealed (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 7](#) (with [Sch. 5](#))

F921 61                    .....

**Textual Amendments**

F921 Sch. 25 para. 61 repealed (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 7](#) (with [Sch. 5](#))

PROSPECTIVE

62                    *Cereals Marketing Act 1965 (c. 14)*  
An offence under section 17(1) of the Cereals Marketing Act 1965 (failure to comply with a requirement of a scheme).

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

*Gas Act 1965 (c. 36)*

- 63 An offence under paragraph 9 of Schedule 6 to the Gas Act 1965 (wrongful disclosure of information).

PROSPECTIVE

*Armed Forces Act 1966 (c. 45)*

- 64 An offence under section 8 of the Armed Forces Act 1966 (false statements on entry into Royal Navy).

PROSPECTIVE

*Agriculture Act 1967 (c. 22)*

- 65 An offence under section 6(9) of the Agriculture Act 1967 (compulsory use of systems of classification of carcasses).
- 66 An offence under section 14(2) of that Act (levy schemes: requirements in relation to registration, returns and records).
- 67 An offence under section 69 of that Act (false statements to obtain grants etc).

PROSPECTIVE

*Sea Fisheries (Shellfish) Act 1967 (c. 83)*

- 68 An offence under section 14(2) of the Sea Fisheries (Shellfish) Act 1967 (offences relating to the deposit and importation of shellfish).

PROSPECTIVE

*Theatres Act 1968 (c. 54)*

- 69 An offence under section 13(1) or (2) of the Theatres Act 1968 (offences relating to licensing of premises for public performances of plays).

PROSPECTIVE

*Theft Act 1968 (c. 60)*

- 70 **F922** .....

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F922** Sch. 15 para. 70 repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 321, 324, [Sch. 22 Pt. 5\(B\)](#); S.I. 2009/3345, [art. 2](#), Sch. para. 27

PROSPECTIVE

*Agriculture Act 1970 (c. 40)*

71 An offence under section 106(8) of the Agriculture Act 1970 (eradication of brucellosis: obstructing or impeding an officer in the exercise of powers to obtain information).

PROSPECTIVE

*Breeding of Dogs Act 1973 (c. 60)*

**F923** 72 .....

**Textual Amendments**

**F923** Sch. 25 para. 72 omitted (1.10.2018) by virtue of [The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018 \(S.I. 2018/486\)](#), reg. 1(1)(b), [Sch. 9 para. 14](#) (with reg. 27)

PROSPECTIVE

*Slaughterhouses Act 1974 (c. 3)*

73 An offence under section 4(5) of the Slaughterhouses Act 1974 (knacker's yard licences and applications for such licences).

PROSPECTIVE

*National Health Service Act 1977 (c. 49)*

74 **F924** .....

**Textual Amendments**

**F924** Sch. 25 para. 74 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 4-6, 8, [Sch. 4](#) (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

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PROSPECTIVE

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

- 75 An offence under section 84(3) of the Magistrates' Courts Act 1980 (making of false statement as to means).

PROSPECTIVE

*Animal Health Act 1981 (c. 22)*

- 76 An offence under paragraph 6 of Schedule 1 to the Animal Health Act 1981 (offences relating to the manufacture of veterinary therapeutic substances).

PROSPECTIVE

*Fisheries Act 1981 (c. 29)*

- 77 An offence under section 5(4) of the Fisheries Act 1981 (alteration of records or furnishing false information).

PROSPECTIVE

*Civil Aviation Act 1982 (c. 16)*

- 78 An offence under section 82 of the Civil Aviation Act 1982 (using an aircraft for advertising, etc.).

PROSPECTIVE

*Mental Health Act 1983 (c. 20)*

- 79 An offence under section 103 of the Mental Health Act 1983 (wrongful disclosure of a report made by a Visitor).
- 80 An offence under section 129 of that Act (obstruction).

PROSPECTIVE

*Building Act 1984 (c. 55)*

- 81 An offence under section 96(3) of the Building Act 1984 (wrongful disclosure of information).

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PROSPECTIVE

*Surrogacy Arrangements Act 1985 (c. 49)*

82 An offence under section 2 of the Surrogacy Arrangements Act 1985 (negotiating surrogacy arrangements on a commercial basis, etc.).

PROSPECTIVE

*Animals (Scientific Procedures) Act 1986 (c. 14)*

83 An offence under section 22(3), 23 or 25(3) of the Animals (Scientific Procedures) Act 1986 (false statements and offences in relation to powers of entry).

PROSPECTIVE

*Motor Cycle Noise Act 1987 (c. 34)*

84 An offence under paragraph 1 of Schedule 1 to the Motor Cycle Noise Act 1987 (supply of exhaust systems etc. not complying with prescribed requirements).

PROSPECTIVE

*Human Organ Transplants Act 1989 (c. 31)*

85 An offence under section 2 of the Human Organ Transplants Act 1989 (restrictions on organ transplants).

PROSPECTIVE

*Town and Country Planning Act 1990 (c. 8)*

86 An offence under paragraph 14(4) of Schedule 15 to the Town and Country Planning Act 1990 (wrongful disclosure of information).

PROSPECTIVE

*Environmental Protection Act 1990 (c. 43)*

87 An offence under section 118(1)(g), (h) or (i) of the Environmental Protection Act 1990 (offences relating to inspection of genetically modified organisms).

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PROSPECTIVE

*Criminal Justice Act 1991 (c. 53)*

- 88 An offence under section 20A of the Criminal Justice Act 1991 (false statements as to financial circumstances).

PROSPECTIVE

*Deer Act 1991 (c. 54)*

- 89 An offence under section 10(3) of the Deer Act 1991 (offences relating to sale and purchase etc. of venison).

PROSPECTIVE

*Water Industry Act 1991 (c. 56)*

- 90 An offence under section 206(2) of the Water Industry Act 1991 (wrongful disclosure of information).
- 91 An offence that falls within paragraph 5(5) of Schedule 6 to that Act (wrongful disclosure of information).

PROSPECTIVE

*Social Security Administration Act 1992 (c. 5)*

- 92 An offence under section 105 of the Social Security Administration Act 1992 (failure of person to maintain himself or another).
- 93 An offence under section 182 of that Act (illegal possession of documents).

PROSPECTIVE

*Local Government Finance Act 1992 (c. 14)*

- 94 An offence under section 27(5) of the Local Government Finance Act 1992 (false statements in relation to properties).

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

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PROSPECTIVE

95 *Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)*  
An offence under section 240 of the Trade Union and Labour Relations (Consolidation) Act 1992 (breach of contract involving injury to persons or property).

PROSPECTIVE

96 *Merchant Shipping Act 1995 (c. 21)*  
An offence under section 57 of the Merchant Shipping Act 1995 (offences relating to merchant navy uniforms).

PROSPECTIVE

97 *Reserve Forces Act 1996 (c. 14)*  
An offence under section 75(5) of the Reserve Forces Act 1996 (making false statements).  
98 An offence under section 82(1) of that Act (offences in connection with regulations under sections 78 and 79 of that Act).  
99 An offence under section 87(1) of that Act (offences in connection with claims for payment).  
100 An offence under section 99 of that Act (false pretence of illegal absence).  
101 An offence under paragraph 5(1) of Schedule 1 to that Act (false answers in attestation papers).

PROSPECTIVE

102 *Housing Act 1996 (c. 52)*  
An offence under paragraph 23 or 24 of Schedule 1 to the Housing Act 1996 (contravening order not to part with money etc. held on behalf of a social landlord).

PROSPECTIVE

103 *Broadcasting Act 1996 (c. 55)*  
An offence under section 144 of the Broadcasting Act 1996 (providing false information in connection with licences).



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PROSPECTIVE

*Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11)*

104 An offence under section 8 or 9(6) of the Breeding and Sale of Dogs (Welfare) Act 1999 (offences relating to the sale of dogs and connected matters).

PROSPECTIVE

*Transport Act 2000 (c. 38)*

105 An offence under section 82(2) of the Transport Act 2000 (wrongful disclosure of information).

SCHEDULE 26

Section 280(2)

INCREASE IN MAXIMUM TERM FOR CERTAIN SUMMARY OFFENCES

PROSPECTIVE

*Railway Regulation Act 1840 (c. 97)*

1 In section 16 of the Railway Regulation Act 1840 (obstructing officers or trespassing upon railway), for “one month”, there is substituted “51 weeks “.

PROSPECTIVE

*Licensing Act 1872 (c. 94)*

2 In section 12 of the Licensing Act 1872 (penalty for being found drunk), for “one month” there is substituted “51 weeks “.

PROSPECTIVE

*Regulation of Railways Act 1889 (c. 57)*

3 In section 5 of the Regulation of Railways Act 1889 (avoiding payment of fares, etc.), in subsection (3), for “three months” there is substituted “51 weeks “.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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PROSPECTIVE

*Witnesses (Public Inquiries) Protection Act 1892 (c. 64)*

- 4 In section 2 of the Witnesses (Public Inquiries) Protection Act 1892 (persons obstructing or intimidating witnesses), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Licensing Act 1902 (c. 28)*

- 5 In section 2 of the Licensing Act 1902 (penalty for being drunk while in charge of a child), in subsection (1), for “one month” there is substituted “51 weeks “.

PROSPECTIVE

*Emergency Powers Act 1920 (c. 55)*

- 6 In section 2 of the Emergency Powers Act 1920 (emergency regulations), in subsection (3), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Judicial Proceedings (Regulation of Reports) Act 1926 (c. 61)*

- 7 In section 1 of the Judicial Proceedings (Regulation of Reports) Act 1926 (restriction on publication of reports of judicial proceedings), in subsection (2), for “four months” there is substituted “51 weeks “.

PROSPECTIVE

*Public Order Act 1936 (1 Edw. 8 & 1 Geo. 6 c. 6)*

- 8 In section 7 of the Public Order Act 1936 (enforcement), in subsection (2), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Cinematograph Films (Animals) Act 1937 (c. 59)*

- 9 In section 1 of the Cinematograph Films (Animals) Act 1937 (prohibition of films involving cruelty to animals), in subsection (3), for “three months” there is substituted “51 weeks “.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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## PROSPECTIVE

*House to House Collections Act 1939 (c. 44)*

- 10 In section 8 of the House to House Collections Act 1939, in subsection (2), for “three months” there is substituted “51 weeks”.

## PROSPECTIVE

*Fire Services Act 1947 (c. 41)*

- 11 In section 31 of the Fire Services Act 1947 (false alarms of fire), in subsection (1), for “three months” there is substituted “51 weeks”.

*National Assistance Act 1948 (c. 29)*

- 12 (1) The National Assistance Act 1948 is amended as follows.
- (2) In section 51 (failure to maintain), in subsection (3)(a) <sup>F925</sup> . . . , for “three months” there is substituted “51 weeks”.
- (3) In section 52 (false statements), in subsection (1), for “three months” there is substituted “51 weeks”.

**Textual Amendments**

**F925** Words in Sch. 26 para. 12(2) repealed (6.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 166, 170, [Sch. 15 Pt. 5](#) (subject to transitional provisions in [Sch. 13](#)); [S.I. 2009/462](#), [art. 4\(c\)](#); [S.I. 2009/631](#), [art. 2\(c\)](#)

## PROSPECTIVE

*Docking and Nicking of Horses Act 1949 (c. 70)*

- 13 (1) The Docking and Nicking of Horses Act 1949 is amended as follows.
- (2) In section 1 (prohibition of docking and nicking except in certain cases), in subsection (3), for “three months” there is substituted “51 weeks”.
- (3) In section 2 (restriction on landing docked horses)—
- (a) in subsection (3), and
  - (b) in subsection (4),
- for “3 months” there is substituted “51 weeks”.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

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PROSPECTIVE

*Protection of Animals (Amendment) Act 1954 (c. 40)*

- 14 In section 2 of the Protection of Animals (Amendment) Act 1954 (breach of disqualification order), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Children and Young Persons (Harmful Publications) Act 1955 (c. 28)*

- 15 In section 2 of the Children and Young Persons (Harmful Publications) Act 1955 (penalty for publishing certain works etc.), in subsection (1), for “four months” there is substituted “51 weeks “.

PROSPECTIVE

*Agriculture Act 1957 (c. 57)*

- 16 In section 7 of the Agriculture Act 1957 (penalties)—  
(a) in subsection (1), for “three months” there is substituted “51 weeks “, and  
(b) in subsection (2), for “one month” there is substituted “51 weeks “.

PROSPECTIVE

*Animals (Cruel Poisons) Act 1962 (c. 26)*

- 17 In section 1 of the Animals (Cruel Poisons) Act 1962 (offences and penalties under regulations), in paragraph (b), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Plant Varieties and Seeds Act 1964 (c. 14)*

- 18 In section 27 of the Plant Varieties and Seeds Act 1964 (tampering with samples), in subsection (1), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Agriculture Act 1967 (c. 22)*

- 19 <sup>F926</sup> .....

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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### Textual Amendments

**F926** Sch. 26 para. 19 repealed (1.4.2008) by [The Agriculture and Horticulture Development Board Order 2008 \(S.I. 2008/576\)](#), arts. 1(3), 18, **Sch. 5 para. 7** (with Sch. 4 para. 10)

## PROSPECTIVE

### *Firearms Act 1968 (c. 27)*

- 20 (1) Part 1 of Schedule 6 to the Firearms Act 1968 (prosecution and punishment of offences) is amended as follows.
- (2) In the entry relating to section 3(6) of that Act (business and other transactions with firearms and ammunition), in the fourth column, for “3 months” there is substituted “ 51 weeks. ”
- (3) In the entry relating to section 6(3) of that Act (power to prohibit movement of arms and ammunition), in the fourth column, for “3 months” there is substituted “ 51 weeks. ”
- (4) In the entry relating to section 20(2) of that Act (trespassing with firearm), in the fourth column, for “3 months” there is substituted “51 weeks. “.
- (5) In the entry relating to section 22(1A) of that Act (acquisition and possession of firearms by minors), in the fourth column, for “3 months” there is substituted “ 51 weeks. ”
- (6) In the entry relating to section 25 of that Act (supplying firearm to person drunk or insane), in the fourth column, for “3 months” there is substituted “ 51 weeks. ”
- (7) In the entry relating to section 32C(6) of that Act (variation endorsement etc. of European documents), in the fourth column, for “3 months” there is substituted “ 51 weeks. ”
- (8) In the entry relating to section 42A of that Act (information as to transactions under visitors' permits), in the fourth column, for “3 months” there is substituted “ 51 weeks. ”
- (9) In the entry relating to section 47(2) of that Act (powers of constables to stop and search), in the fourth column, for “3 months” there is substituted “ 51 weeks. ”
- (10) In the entry relating to section 49(3) of that Act (police powers in relation to arms traffic), in the fourth column, for “3 months” there is substituted “ 51 weeks. ”

## PROSPECTIVE

### *Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)*

- 21 In section 7 of the Agriculture (Miscellaneous Provisions) Act 1968 (punishment of offences under Part 1), in subsection (1), for “three months” there is substituted “51 weeks “.

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PROSPECTIVE

*Agriculture Act 1970 (c. 40)*

- 22 (1) The Agriculture Act 1970 is amended as follows.
- (2) In section 68 (duty to give statutory statement), in subsection (4), for “three months” there is substituted “51 weeks”.
  - (3) In section 69 (marking of material prepared for sale), in subsection (4), for “three months” there is substituted “51 weeks”.
  - (4) In section 70 (use of names or expressions with prescribed meanings), in subsection (2), for “three months” there is substituted “51 weeks”.
  - (5) In section 71 (particulars to be given of attributes if claimed to be present), in subsection (2), for “three months” there is substituted “51 weeks”.
  - (6) In section 73 (deleterious ingredients in feeding stuff), in subsection (4), for “three months” there is substituted “51 weeks”.
  - (7) In section 73A (unwholesome feeding stuff), in subsection (4), for “three months” there is substituted “51 weeks”.
  - (8) In section 74A (regulations controlling the contents of feeding stuff), in subsection (3), for “three months” there is substituted “51 weeks”.
  - (9) In section 79 (supplementary provision relating to samples and analysis), in subsection (10), for “three months” there is substituted “51 weeks”.
  - (10) In section 83 (exercise of powers by inspectors), in subsection (3), for “three months” there is substituted “51 weeks”.
  - (11) In section 106 (eradication of brucellosis), in subsection (7), for “three months” there is substituted “51 weeks”.

PROSPECTIVE

*Slaughterhouses Act 1974 (c. 3)*

- 23 (1) The Slaughterhouses Act 1974 is amended as follows.
- (2) In section 20 (wrongful disclosure of information), in subsection (4), for “three months” there is substituted “51 weeks”.
  - (3) In section 21 (obstruction), in subsection (1), for “one month” there is substituted “51 weeks”.
  - (4) In section 23 (prosecution and punishment of offences), in subsection (2)(a), for “three months” there is substituted “51 weeks”.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

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PROSPECTIVE

*Criminal Law Act 1977 (c. 45)*

- 24 In section 8 of the Criminal Law Act 1977 (trespassing with a weapon of offence), in subsection (3), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Refuse Disposal (Amenity) Act 1978 (c. 3)*

- 25 In section 2 of the Refuse Disposal (Amenity) Act 1978 (penalty for unauthorised dumping), in subsection (1), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Customs and Excise Management Act 1979 (c. 2)*

- 26 (1) The Customs and Excise Management Act 1979 is amended as follows.
- (2) In section 21 (control of movement of aircraft), in subsection (6), for “3 months” there is substituted “51 weeks “.
- (3) In section 33 (power to inspect aircraft etc.), in subsection (4), for “3 months” there is substituted “51 weeks “.
- (4) In section 34 (power to prevent flight of aircraft)—
- (a) in subsection (2), and
- (b) in subsection (3),
- for “3 months” there is substituted “51 weeks “.

PROSPECTIVE

*Licensed Premises (Exclusion of Certain Persons) Act 1980 (c. 32)*

- 27 In section 2 of the Licensed Premises (Exclusion of Certain Persons) Act 1980 (penalty for non-compliance with an exclusion order), in subsection (1), for “one month” there is substituted “ 51 weeks ”.

PROSPECTIVE

*Criminal Attempts Act 1981 (c. 47)*

- 28 In section 9 of the Criminal Attempts Act 1981 (interference with vehicles), in subsection (3), for “three months” there is substituted “51 weeks “.

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

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PROSPECTIVE

*British Nationality Act 1981 (c. 61)*

- 29 In section 46 of the British Nationality Act 1981 (offences and proceedings), in subsection (1) for “three months” there is substituted “51 weeks”.

PROSPECTIVE

*Civil Aviation Act 1982 (c. 16)*

- 30 (1) The Civil Aviation Act 1982 is amended as follows.
- (2) In section 44 (offences relating to the power to obtain rights over land), in subsection (10), for “three months” there is substituted “ 51 weeks ”
- (3) In section 75 (investigation of accidents), in subsection (5), for “three months” there is substituted “ 51 weeks ”

PROSPECTIVE

*Anatomy Act 1984 (c. 14)*

- 31 In section 11 of the Anatomy Act 1984 (offences), in subsection (6), for “3 months” there is substituted “51 weeks”.

PROSPECTIVE

*Public Health (Control of Disease) Act 1984 (c. 22)*

- 32 (1) The Public Health (Control of Disease) Act 1984 is amended as follows.
- (2) In section 29 (letting of house after recent case of notifiable disease), in subsection (1), for “one month” there is substituted “51 weeks”.
- (3) In section 30 (duty on ceasing to occupy house after recent case of notifiable disease), in subsection (1), for “one month” there is substituted “51 weeks”.
- (4) In section 62 (powers of entry), in subsection (3), for “3 months” there is substituted “51 weeks”.

PROSPECTIVE

*County Courts Act 1984 (c. 28)*

- 33 (1) The County Courts Act 1984 is amended as follows.



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(2) In section 14 (penalty for assaulting officers), in subsection (1)(a), for “3 months” there is substituted “51 weeks “.

(3) In section 92 (penalty for rescuing goods seized), in subsection (1)(a), for “one month” there is substituted “51 weeks.

PROSPECTIVE

*Animal Health and Welfare Act 1984 (c. 40)*

34 In section 10 of the Animal Health and Welfare Act 1984 (artificial breeding of livestock), in subsection (6), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

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

35 In section 63C of the Police and Criminal Evidence Act 1984 (testing for presence of drugs), in subsection (1), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Sporting Events (Control of Alcohol etc.) Act 1985 (c. 57)*

36 In section 8 of the Sporting Events (Control of Alcohol etc.) Act 1985 (penalties for offences), in paragraph (b), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Public Order Act 1986 (c. 64)*

37 (1) The Public Order Act 1986 is amended as follows.

(2) In section 12 (imposing conditions on public processions)—

- (a) in subsection (8), and
- (b) in subsection (10),

for “3 months” there is substituted “51 weeks “.

(3) In section 13 (prohibiting public processions)—

- (a) in subsection (11), and
- (b) in subsection (13),

for “3 months” there is substituted “51 weeks “.

(4) In section 14 (imposing conditions on public assemblies)—

- (a) in subsection (8), and
- (b) in subsection (10),

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for “3 months” there is substituted “51 weeks “.

(5) In section 14B (offences in connection with trespassory assemblies and arrest therefor)—

(a) in subsection (5), and

(b) in subsection (7),

for “3 months” there is substituted “51 weeks “.

PROSPECTIVE

*Road Traffic Offenders Act 1988 (c. 53)*

38 (1) Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offenders) is amended as follows.

(2) In the entry relating to section 4(2) of the Road Traffic Act 1988 (driving, or being in charge, when under the influence of drink or drugs), in column 4, for “3 months” there is substituted “51 weeks “.

(3) In the entry relating to section 5(1)(b) of that Act (driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit), in column 4, for “3 months” there is substituted “51 weeks “.

(4) In the entry relating to section 7 of that Act (provision of specimens for analysis), in column 4, for “3 months” there is substituted “51 weeks “.

(5) In the entry relating to section 7A of that Act (failing to allow specimen to be subjected to analysis), in column 4, for “3 months” there is substituted “51 weeks “.

PROSPECTIVE

*Official Secrets Act 1989 (c. 6)*

39 In section 10 of the Official Secrets Act 1989 (penalties), in subsection (2), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Human Organ Transplants Act 1989 (c. 31)*

40 In section 1 of the Human Organ Transplants Act 1989 (prohibition of commercial dealings in human organs), in subsection (5), for “three months” there is substituted “51 weeks “.

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PROSPECTIVE

*Football Spectators Act 1989 (c. 37)*

41            F927            .....

**Textual Amendments**

**F927** Sch. 26 para. 41 repealed (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 65, 66(2), [Sch. 5](#); [S.I. 2007/858](#), [art. 2\(m\)\(n\)\(xvii\)](#)

PROSPECTIVE

*Food Safety Act 1990 (c. 16)*

42            In section 35 of the Food Safety Act 1990 (punishment of offences), in subsection (1), for “three months” there is substituted “51 weeks”.

PROSPECTIVE

*Deer Act 1991 (c. 54)*

43            In section 9 of the Deer Act 1991 (penalties for offences relating to deer), in subsection (1), for “three months” there is substituted “51 weeks”.

PROSPECTIVE

*Social Security Administration Act 1992 (c. 5)*

44            In section 112 of the Social Security Administration Act 1992 (false representations for obtaining benefit etc.), in subsection (2), for “3 months” there is substituted “51 weeks”.

PROSPECTIVE

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

- 45            (1) The Criminal Justice and Public Order Act 1994 is amended as follows.
- (2) In section 60 (failing to stop), in subsection (8), for “one month” there is substituted “51 weeks”.
- (3) In section 60AA (powers to require removal of disguises), in subsection (7), for “one month” there is substituted “51 weeks”.

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- (4) In section 61 (power to remove trespasser on land), in subsection (4), for “three months” there is substituted “ 51 weeks ”.
- (5) In section 62B (failure to comply with direction under section 62A: offences), in subsection (3), for “3 months” there is substituted “ 51 weeks ”.
- (6) In section 63 (powers to remove persons attending or preparing for a rave), in subsections (6) and (7B), for “three months” there is substituted “ 51 weeks ”.
- (7) In section 68 (offence of aggravated trespass), in subsection (3), for “three months” there is substituted “ 51 weeks ”.
- (8) In section 69 (powers to remove persons committing or participating in aggravated trespass), in subsection (3), for “three months” there is substituted “ 51 weeks ”.

PROSPECTIVE

*London Local Authorities Act 1995 (c. x)*

- 46 In section 24 of the London Local Authorities Act 1995 (enforcement), in subsection (1), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Police Act 1996 (c. 16)*

- 47 In section 89 of the Police Act 1996 (assaults on constables etc.), in subsection (2), for “one month” there is substituted “51 weeks “.

PROSPECTIVE

*Treasure Act 1996 (c. 24)*

- 48 In section 8 of the Treasure Act 1996 (duty of finder of treasure to notify coroner), in subsection (3)(a), for “three months” there is substituted “51 weeks “.

PROSPECTIVE

*Education Act 1996 (c. 56)*

- 49 (1) The Education Act 1996 is amended as follows.
- (2) In section 444 (failure to secure regular attendance at school), in subsection (8A)(b), for “three months” there is substituted “51 weeks “.
  - (3) In section 559 (prohibition or restriction on employment of children), in subsection (4)(b), for “one month” there is substituted “51 weeks “.

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PROSPECTIVE

*Government of Wales Act 1998 (c. 38)*

50

F928

**Textual Amendments**

**F928** Sch. 26 para. 50 repealed by [Government of Wales Act 2006 \(c. 32\)](#), s. 163, [Sch. 12](#), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

PROSPECTIVE

*Access to Justice Act 1999 (c. 22)*

F929 51

**Textual Amendments**

**F929** Sch. 26 para. 51 repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 Pt. 2](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

PROSPECTIVE

*Greater London Authority Act 1999 (c. 29)*

52

In section 64 of the Greater London Authority Act 1999 (failure to attend proceedings etc), in subsection (2)(b), for "three months" there is substituted "51 weeks".

PROSPECTIVE

*Immigration and Asylum Act 1999 (c. 33)*

53

- (1) The Immigration and Asylum Act 1999 is amended as follows.
- (2) In section 105 (false representation), in subsection (2), for "three months" there is substituted "51 weeks".
- (3) In section 108 (failure of sponsor to maintain), in subsection (2), for "3 months" there is substituted "51 weeks".

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PROSPECTIVE

*Financial Services and Markets Act 2000 (c. 8)*

- 54 (1) The Financial Services and Markets Act 2000 is amended as follows.
- (2) In section 177 (offences), in subsection (6), for “three months” there is substituted “51 weeks”.
- (3) In section 352 (offences), in subsection (5), for “three months” there is substituted “51 weeks”.

PROSPECTIVE

*Terrorism Act 2000 (c. 11)*

- 55 (1) The Terrorism Act 2000 is amended as follows.
- (2) In section 36 (police powers), in subsection (4)(a), for “three months” there is substituted “51 weeks”.
- (3) In section 51 (offences in relation to parking), in subsection (6)(a), for “three months” there is substituted “51 weeks”.
- (4) In Schedule 5 (terrorist investigations: information)—
- (a) in paragraph 3(8)(a), and
- (b) in paragraph 15(5)(a),
- for “three months” there is substituted “51 weeks”.
- (5) In Schedule 7 (ports and border controls), in paragraph 18(2)(a), for “three months” there is substituted “51 weeks”.

PROSPECTIVE

*Criminal Justice and Police Act 2001 (c. 16)*

- 56 (1) The Criminal Justice and Police Act 2001 is amended as follows.
- (2) In section 25 (enforcement of closure orders)—
- (a) in subsection (3)(a), for “one month” there is substituted “51 weeks”, and
- (b) in subsections (4) and (5), for “three months” there is substituted “51 weeks”.
- (3) In section 42 (prevention of intimidation), in subsection (7), for “three months” there is substituted “51 weeks”.

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PROSPECTIVE

*Police Reform Act 2002 (c. 30)*

57 In section 46 of the Police Reform Act 2002 (offences against designated and accredited persons etc.), in subsection (2), for “one month” there is substituted “51 weeks”.

PROSPECTIVE

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

58 In section 137 of the Nationality, Immigration and Asylum Act 2002 (offences relating to the disclosure of information), in subsection (2)(a), for “three months” there is substituted “ 51 weeks ”.

PROSPECTIVE

*Anti-social Behaviour Act 2003 (c. 38)*

F930 59 .....

**Textual Amendments**

**F930** Sch. 26 para. 59 repealed (20.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 50** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(cc)(viii) (as renumbered (20.10.2014) by [S.I. 2014/2754](#), arts. 1, 3(b))

SCHEDULE 27

Section 283

ENABLING POWERS: ALTERATION OF MAXIMUM PENALTIES ETC.

PROSPECTIVE

*Plant Health Act 1967 (c. 8)*

1 (1) Section 3 of the Plant Health Act 1967 (control of spread of pests in Great Britain) is amended as follows.

(2) In subsection (4A), for “three months” there is substituted “ the prescribed term ”.

(3) After that subsection there is inserted—

“(4B) In subsection (4A) above, “the prescribed term” means—

(a) in relation to England and Wales, 51 weeks;

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(b) in relation to Scotland, three months.”

PROSPECTIVE

*Agriculture Act 1967 (c. 22)*

2 F931 .....

**Textual Amendments**

**F931** Sch. 27 para. 2 repealed (1.4.2008) by [The Agriculture and Horticulture Development Board Order 2008 \(S.I. 2008/576\)](#), arts. 1(3), 18, **Sch. 5 para. 7** (with Sch. 4 para. 10)

PROSPECTIVE

F932 ...

**Textual Amendments**

**F932** Sch. 27 para. 3 and cross-heading repealed (31.12.2020) by [The European Union Withdrawal \(Consequential Modifications\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1447\)](#), reg. 1(3), **Sch.** (with reg. 9(2))

F932<sup>3</sup> .....

PROSPECTIVE

*Slaughterhouses Act 1974 (c. 3)*

4 In section 38(5) of the Slaughterhouses Act 1974 (maximum penalties to be prescribed by regulations), the words “or imprisonment for a term of three months or both” are omitted.

PROSPECTIVE

*Anatomy Act 1984 (c. 14)*

- 5
- (1) Section 11 of the Anatomy Act 1984 (offences) is amended as follows.
  - (2) In subsection (7), for “3 months” there is substituted “ the prescribed term ”.
  - (3) After that subsection there is inserted—
    - “(7A) In subsection (7), “the prescribed term” means—
      - (a) in relation to England and Wales, 51 weeks;



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(b) in relation to Scotland, 3 months.”

*Environmental Protection Act 1990 (c. 43)*

- 6 (1) Section 141 of the Environmental Protection Act 1990 (power to prohibit or restrict the importation or exportation of waste) is amended as follows.
- (2) In paragraph (g) of subsection (5), for “six months” there is substituted “ the prescribed term ”.
- (3) After that subsection there is inserted—
- “(5A) In subsection (5)(g), “the prescribed term” means—
- (a) in relation to England and Wales, where the offence is a summary offence, 51 weeks;
  - (b) in relation to England and Wales, where the offence is triable either way, twelve months;
  - (c) in relation to Scotland and Northern Ireland, six months.”

**Commencement Information**

**I647** Sch. 27 para. 6 in force at 2.5.2022 by S.I. 2022/500, reg. 3(b)(ii)

*Scotland Act 1998 (c. 46)*

- 7 (1) Section 113 of the Scotland Act 1998 (subordinate legislation: scope of powers) is amended as follows.
- (2) In paragraph (a) of subsection (10), for “three months” there is substituted “ the prescribed term ”.
- (3) After that subsection there is inserted—
- “(10A) In subsection (10)(a), “the prescribed term” means—
- (a) in relation to England and Wales, where the offence is a summary offence, 51 weeks;
  - (b) in relation to England and Wales, where the offence is triable either way, twelve months;
  - (c) in relation to <sup>F933</sup>... Northern Ireland, three months.”

**Textual Amendments**

**F933** Words in Sch. 27 para. 7(3) omitted (31.10.2012) by virtue of [Scotland Act 2012 \(c. 11\)](#), ss. 39(5), 44(5); S.I. 2012/2516, art. 2(e)

**Commencement Information**

**I648** Sch. 27 para. 7 in force at 2.5.2022 by S.I. 2022/500, reg. 3(b)(ii)

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PROSPECTIVE

*Regulatory Reform Act 2001 (c. 6)*

8

F934

**Textual Amendments**

**F934** Sch. 27 para. 8 repealed (8.1.2007) by [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), ss. 30(1), 33, [Sch.](#) (with s. 30(2)-(5))

SCHEDULE 28

Section 284

INCREASE IN PENALTIES FOR DRUG-RELATED OFFENCES

*Misuse of Drugs Act 1971 (c. 38)*

- 1 (1) Schedule 4 to the Misuse of Drugs Act 1971 (prosecution and punishment of offences) is amended as follows.
- (2) In column 6 of that Schedule (punishments for offences under that Act committed in relation to Class C drugs), in each of the following entries, for “5 years” there is substituted “ 14 years ”.
- (3) Those entries are the entries relating to the punishment, on conviction on indictment, of offences under the following provisions of that Act—
- (a) section 4(2) (production, or being concerned in the production, of a controlled drug),
  - (b) section 4(3) (supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another),
  - (c) section 5(3) (having possession of a controlled drug with intent to supply it to another),
  - (d) section 8 (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there),
  - (e) section 12(6) (contravention of direction prohibiting practitioner etc from possessing, supplying etc controlled drugs), and
  - (f) section 13(3) (contravention of direction prohibiting practitioner etc from prescribing, supplying etc controlled drugs).

*Customs and Excise Management Act 1979 (c. 2)*

- 2 In Schedule 1 to the Customs and Excise Management Act 1979 (controlled drugs: variation of punishments for certain offences under that Act), in paragraph 2(c) (punishment on conviction on indictment of offences under that Act committed in relation to Class C drugs), for “5 years” there is substituted “ 14 years ”.

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

- 3 In section 19 of the Criminal Justice (International Co-operation) Act 1990 (ships used for illicit traffic), in subsection (4)(c)(ii) (punishment on conviction on indictment of offences under that section committed in relation to Class C drugs), for “five years” there is substituted “fourteen years”.

F935 SCHEDULE 29

**Textual Amendments**

**F935** Sch. 29 repealed (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702 \(N.I. 3\)\)](#), arts. 1, 82(2), [Sch. 8](#) (with art. 81); S.R. 2005/4, [art. 3](#) (with arts. 4-7)

F936 SCHEDULE 30

Section 299

DISQUALIFICATION FROM WORKING WITH CHILDREN

**Textual Amendments**

**F936** Sch. 30 repealed (prosp.) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), ss. 63(2), 65, [Sch. 10](#) (with ss. 51, 57(3), 60(4), 64(5))

- 1 The Criminal Justice and Court Services Act 2000 (c. 43) is amended as follows.  
2 After section 29 there is inserted—

**“29A Disqualification at discretion of court: adults and juveniles**

- (1) This section applies where—
- (a) an individual is convicted of an offence against a child (whether or not committed when he was aged 18 or over),
  - (b) the individual is sentenced by a senior court, and
  - (c) no qualifying sentence is imposed in respect of the conviction.
- (2) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it may order the individual to be disqualified from working with children.
- (3) If the court makes an order under this section, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.

**29B Subsequent application for order under section 28 or 29**

- (1) Where—

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- (a) section 28 applies but the court has neither made an order under that section nor complied with subsection (6) of that section, or
      - (b) section 29 applies but the court has not made an order under that section, and it appears to the prosecutor that the court has not considered the making of an order under that section,
    - the prosecutor may at any time apply to that court for an order under section 28 or 29.
  - (2) Subject to subsection (3), on an application under subsection (1)—
    - (a) in a case falling within subsection (1)(a), the court—
      - (i) must make an order under section 28 unless it is satisfied as mentioned in subsection (5) of that section, and
      - (ii) if it does not make an order under that section, must comply with subsection (6) of that section,
    - (b) in a case falling within subsection (1)(b), the court—
      - (i) must make an order under section 29 if it is satisfied as mentioned in subsection (4) of that section, and
      - (ii) if it does so, must comply with subsection (5) of that section.
  - (3) Subsection (2) does not enable or require an order under section 28 or 29 to be made where the court is satisfied that it had considered the making of an order under that section at the time when it imposed the qualifying sentence or made the relevant order.”
- 3
- (1) Section 30 (supplemental provisions) is amended as follows.
  - (2) In the heading for “and 29” there is substituted “ to 29B ”.
  - (3) In subsection (1)—
    - (a) for “and 29” there is substituted “ to 29B ”, and
    - (b) in the definition of “qualifying sentence”, after paragraph (d) there is inserted—
      - “(dd) a sentence of detention under section 226 or 228 of the Criminal Justice Act 2003.”.
  - (4) In subsection (5)—
    - (a) in paragraph (a), for “or 29” there is substituted “ , 29 or 29A ”,
    - (b) after paragraph (b) there is inserted—
      - “(c) in relation to an individual to whom section 29A applies and on whom a sentence has been passed, references to his sentence are to that sentence.”
- 4
- In section 31 (appeals), in subsection (1), after paragraph (b) there is inserted—
    - “(c) where an order is made under section 29A, as if the order were a sentence passed on him for the offence of which he has been convicted.”
- 5
- (1) Section 33 (conditions for application under section 32) is amended as follows.
  - (2) In subsection (6), after paragraph (d) there is inserted—
    - “(e) in relation to an individual not falling within any of paragraphs (a) to (d), the day on which the disqualification order is made.”.
  - (3) For subsection (8) there is substituted—

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- “(8) In subsection (7) “detention” means detention (or detention and training)—
- (a) under any sentence or order falling within paragraphs (b) to (f) of the definition of “qualifying sentence” in section 30(1), or
  - (b) under any sentence or order which would fall within those paragraphs if it were for a term or period of 12 months or more.”.

PROSPECTIVE

SCHEDULE 31

Section 300

DEFAULT ORDERS: MODIFICATION OF PROVISIONS RELATING TO COMMUNITY ORDERS

*General*

- 1 Any reference to the offender is, in relation to a default order, to be read as a reference to the person in default.

*Unpaid work requirement*

- 2 (1) In its application to a default order, [F937 paragraph 2 of Schedule 9 to the Sentencing Code] (unpaid work requirement) is modified as follows.
- (2) [F938 In sub-paragraph (1)(b), for sub-paragraphs (i) and (ii) there is substituted—
- “(i) not less than 20 hours, and
  - (ii) in the case] of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

Amount	Number of Hours
An amount not exceeding £200	40 hours
An amount exceeding £200 but not exceeding £500	60 hours
An amount exceeding £500	100 hours”;

[F939 (3) Sub-paragraphs (3) and (4) are omitted.]

**Textual Amendments**

**F937** Words in Sch. 31 para. 2(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 249\(2\)\(a\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F938** Words in Sch. 31 para. 2(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 249\(2\)\(b\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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**F939** Sch. 31 para. 2(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 249(2)(c) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

### Curfew requirement

3 (1) In its application to a default order, [F940 paragraph 9 of Schedule 9 to the Sentencing Code] (curfew requirement) is modified as follows.

[F941(1A) Any reference to an offence of which the offender was convicted before, on or after a day is to be read as a reference to a default made by a person before, on or after that day.]

(2) After [F942 sub-paragraph (4A)] there is inserted—

[F943“(4B) In the case of an amount in default which is specified in the first column of the following Table, the number of days on which the person in default is subject to the curfew requirement must not exceed the number of days set out opposite that amount in the second column.

TABLE

Amount	Number of days
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”

### Textual Amendments

**F940** Words in Sch. 31 para. 3(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 249(3)(a) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

**F941** Sch. 31 para. 3(1A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 150(9)(a), 208(5)(q)

**F942** Words in Sch. 31 para. 3(2) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 150(9)(b)(i), 208(5)(q)

**F943** Word in Sch. 31 para. 3(2) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 150(9)(b)(ii), 208(5)(q)

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### [<sup>F944</sup> Attendance centre requirement

#### Textual Amendments

**F944** Sch. 31 para. 3A and preceding heading inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, **Sch. 26 para. 2(4)** (with [Sch. 27 para. 13\(2\)](#)); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)

- 3A [<sup>F945</sup>In its application to a default order, paragraph 27(3) of Schedule 9 to the Sentencing Code (attendance centre requirement) is modified by the substitution for the words after “must” of “be—]
- (a) not less than 12, and
  - (b) in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

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

.]

#### Textual Amendments

**F945** Words in Sch. 31 para. 3A substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 249(4)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### [<sup>F946</sup> Change of residence

#### Textual Amendments

**F946** Sch. 31 paras. 3B, 3C and cross-heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), ss. 18(10), 22(1) (with [Sch. 7 para. 7](#)); S.I. 2015/40, art. 2(p)

- 3B (1) In its application to a default order, [<sup>F947</sup>section 215 of the Sentencing Code] (duty of offender to keep in touch with responsible officer) is modified as follows.

[<sup>F948</sup>(2) At the end of subsection (2) there is inserted “, and must notify the responsible officer of any change of address.”]

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#### Textual Amendments

- F947** Words in Sch. 31 para. 3B(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(5\)\(a\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2
- F948** Sch. 31 para. 3B(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(5\)\(b\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2

3C <sup>[F949]</sup>Section 216 of the Sentencing Code] (duty to obtain permission before changing residence) does not apply in relation to a default order.]

#### Textual Amendments

- F949** Words in Sch. 31 para. 3C substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(6\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2

#### *Enforcement, revocation and amendment of default order*

- 4 (1) In its application to a default order,<sup>[F950]</sup>Schedule 10 to the Sentencing Code (breach, revocation or amendment of community order)]is modified as follows.
- (2) Any reference to the offence in respect of which the community order was made is to be taken to be a reference to the default in respect of which the default order was made.
- (3) Any power of the court to revoke the community order<sup>[F951]</sup>and re-sentence the offender]for the offence is to be taken to be a power to revoke the default order and deal with him in any way in which the court which made the default order could deal with him for his default in paying the sum in question.
- (4) In<sup>[F952]</sup>paragraph 5]the reference to the Crown Court is to be taken as a reference to a magistrates' court.

<sup>[F953]</sup>(4A) For<sup>[F954]</sup>paragraphs 16 and 17]there is substituted—

- “16 (1) This paragraph applies where, at any time while a default order is in force in respect of a person, the appropriate court is satisfied that the person proposes to change, or has changed, residence from the local justice area concerned to another local justice area (“the new local justice area”).
- (2) The appropriate court may amend the default order to specify the new local justice area.
- (3) In this paragraph “the appropriate court” means a magistrates’ court acting in the local justice area specified in the order.”]

<sup>[F955]</sup>(5) The following provisions are omitted—

- (a) paragraph 10(5)(d) (in relation to any time after the coming into force of paragraph 21(2) of Schedule 22 to the Sentencing Act 2020);
- (b) paragraph 10(11);
- (c) paragraph 14(8);
- (d) paragraph 16(3) (in relation to any time after the coming into force of paragraph 23 of Schedule 22 to that Act);
- (e) paragraph 23(6);



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(f) paragraph 25(2)(b).]

**Textual Amendments**

- F950** Words in Sch. 31 para. 4(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(7\)\(a\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2
- F951** Words in Sch. 31 para. 4(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(7\)\(b\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2
- F952** Words in Sch. 31 para. 4(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(7\)\(c\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2
- F953** Sch. 31 para. 4(4A) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 18\(11\), 22\(1\)](#) (with [Sch. 7 para. 7](#)); S.I. 2015/40, [art. 2\(p\)](#)
- F954** Words in Sch. 31 para. 4(4A) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(7\)\(d\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2
- F955** Sch. 31 para. 4(5) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(7\)\(e\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2

*Power to alter amount of money or number of hours or days*

- 5 The Secretary of State may by order amend paragraph 2 [<sup>F956</sup> 3 or 3A] by substituting for any reference to an amount of money or a number of hours or days there specified a reference to such other amount or number as may be specified in the order.

**Textual Amendments**

- F956** Words in Sch. 31 para. 5 substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 148, 153, Sch. 26 para. 2\(6\)](#); S.I. 2008/1586, [art. 2\(1\)](#), [Sch. 1 para. 48\(a\)](#) (with [Sch. 27 para. 13\(2\)](#))

*Transfer of default orders to Scotland or Northern Ireland*

- 6 In its application to a default order, [<sup>F957</sup> Schedule 11 to the Sentencing Code] (transfer of community orders to Scotland or Northern Ireland) is modified as follows.

**Textual Amendments**

- F957** Words in Sch. 31 para. 6 substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(8\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2

- [<sup>F958</sup>7 After paragraph 20 there is inserted—

“20A Nothing in paragraph 20 affects the application of section 300(7) of the Criminal Justice Act 2003 to a default order made or amended in accordance with Part 1 or 2.”]

**Textual Amendments**

- F958** Sch. 31 para. 7 substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 249\(9\)](#) (with [Sch. 24 para. 447, Sch. 27](#)); S.I. 2020/1236, reg. 2

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[<sup>F959</sup>8 In paragraph 21, after sub-paragraph (5) there is inserted—  
“(5A) The home court may not impose a fine on the offender.”]

**Textual Amendments**

**F959** Sch. 31 para. 8 substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 249\(10\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

SCHEDULE 32

Section 304

AMENDMENTS RELATING TO SENTENCING

**PART 1**

GENERAL

*Piracy Act 1837 (c. 88)*

1 Section 3 of the Piracy Act 1837 (punishment for offence under certain repealed Acts relating to piracy) shall cease to have effect.

**Commencement Information**

**I649** Sch. 32 para. 1 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(2\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Children and Young Persons Act 1933 (c. 12)*

2 (1) Section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which young persons are concerned) is amended as follows.

(2) <sup>F960</sup> .....

(3) In subsection (11)—

(a) in the definition of “sexual offence”, for “has the same meaning as in the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “means an offence listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003”, and

(b) in the definition of “violent offence, for “has the same meaning as in the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “means an offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003”.

**Textual Amendments**

**F960** Sch. 32 para. 2(2) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

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#### Commencement Information

**I650** Sch. 32 para. 2 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(3) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### *Prison Act 1952 (c. 52)*

- 3 In section 53 of the Prison Act 1952 (interpretation), for “section 62 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ section 221 of the Criminal Justice Act 2003 ”.

#### Commencement Information

**I651** Sch. 32 para. 3 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(4) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### *Criminal Justice Act 1967 (c. 80)*

- 4 The Criminal Justice Act 1967 is amended as follows.

#### Commencement Information

**I652** Sch. 32 para. 4 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(5) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 5 In section 32 (amendments of Costs in Criminal Cases Act 1952), in subsection (3) (a), for “make an order under paragraph 5 of Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 (probation orders requiring treatment for mental condition) or” there is substituted “ include in a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) a mental health requirement under section 207 of that Act or make an order under ”.

#### Commencement Information

**I653** Sch. 32 para. 5 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(5) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 6 In section 104 (general provisions as to interpretation)\_  
(a) in subsection (1), the definition of “suspended sentence” is omitted, and  
(b) subsection (2) is omitted.

#### Commencement Information

**I654** Sch. 32 para. 6 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(5) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### *Criminal Appeal Act 1968 (c. 19)*

- 7 The Criminal Appeal Act 1968 is amended as follows.

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**Commencement Information**

**I655** Sch. 32 para. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(6) (subject to **art. 2(2)**, Sch. 2)

8 (1) Section 10 (appeal against sentence in cases dealt with by Crown Court otherwise than on conviction on indictment) is amended as follows.

(2) In subsection (2) —

- (a) in paragraph (b), for “or a community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ a youth community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000 or a community order within the meaning of Part 12 of the Criminal Justice Act 2003 ”, and
- (b) paragraph (c) and the word “or” immediately preceding it are omitted.

**Commencement Information**

**I656** Sch. 32 para. 8 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(6) (subject to **art. 2(2)**, Sch. 2)

9 In section 11 (supplementary provisions as to appeal against sentence), subsection (4) is omitted.

**Commencement Information**

**I657** Sch. 32 para. 9 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(6) (subject to **art. 2(2)**, Sch. 2)

10 In Schedule 2 (procedural and other provisions applicable on order for retrial), in paragraph 2(4), for the words from the beginning to “apply” there is substituted “ Section 240 of the Criminal Justice Act 2003 (crediting of periods of remand in custody: terms of imprisonment and detention) shall apply ”.

**Commencement Information**

**I658** Sch. 32 para. 10 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(6) (subject to **art. 2(2)**, Sch. 2)

*Firearms Act 1968 (c. 27)*

11 The Firearms Act 1968 is amended as follows.

**Commencement Information**

**I659** Sch. 32 para. 11 partly in force; Sch. 32 para. 11 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 11 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.

12 (1) Section 21 (possession of firearms by persons previously convicted of crime) is amended as follows.

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F961(2) .....

F961(3) .....

(4) In subsection (3)(b), for “probation order” there is substituted “ community order ”.

(5) After subsection (3) there is inserted—

“(3ZA) In subsection (3)(b) above, “community order” means—

- (a) a community order within the meaning of Part 12 of the Criminal Justice Act 2003 made in England and Wales, or
- (b) a probation order made in Scotland.”

F962(6) .....

#### Textual Amendments

**F961** Sch. 32 para. 12(2) (3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 39](#); S.I. 2012/2906, art. 2(h)

**F962** Sch. 32 para. 12(6) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 39](#); S.I. 2012/2906, art. 2(h)

#### Commencement Information

**I660** Sch. 32 para. 12 wholly in force at 4.4.2005; Sch. 32 para. 12 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 12(1)-(3)(6) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); Sch. 32 para. 12 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(7\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

13 (1) Section 52 (forfeiture and disposal of firearms; cancellation of certificate by convicting court) is amended as follows.

(2) In subsection (1)(c), for “probation order” there is substituted “ community order ”.

(3) After subsection (1) there is inserted —

“(1A) In subsection (1)(c) “community order” means—

- (a) a community order within the meaning of Part 12 of the Criminal Justice Act 2003 made in England and Wales, or
- (b) a probation order made in Scotland.”

#### Commencement Information

**I661** Sch. 32 para. 13 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(7\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### *Social Work (Scotland) Act 1968 (c. 49)*

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**Textual Amendments**

**F963** Sch. 32 para. 14 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

**Commencement Information**

**I662** Sch. 32 para. 14 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), Sch. 1 para. 42(8) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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

**F964**<sup>15</sup> .....

**Textual Amendments**

**F964** Sch. 32 para. 15 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 12 para. 52](#); S.I. 2012/2906, [art. 2\(j\)](#) (with [art. 7\(2\)\(3\)](#))

**Commencement Information**

**I663** Sch. 32 para. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), Sch. 1 para. 42(9) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Immigration Act 1971 (c. 77)*

16 In section 7 of the Immigration Act 1971 (exemption from deportation for certain existing residents), in subsection (4), for “section 67 of the Criminal Justice Act 1967” there is substituted “ section 240 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I664** Sch. 32 para. 16 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), Sch. 1 para. 42(10) (subject to [art. 2\(2\)](#), [Sch. 2](#))

PROSPECTIVE

*Thames Barrier and Flood Prevention Act 1972 (c. xiv)*

17 In section 56 of the Thames Barrier and Flood Prevention Act 1972 (orders for carrying out certain defence works), in subsection (3)(a)(ii), for “six months” there is substituted “ 12 months ”.

*Rehabilitation of Offenders Act 1974 (c. 53)*

18 (1) Section 5 of the Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular offences) is amended as follows.

(2) In subsection (1)—

(a) at the end of paragraph (e), there is inserted “ and ”, and

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- (b) after that paragraph, there is inserted the following paragraph—
  - “(f) a sentence of imprisonment for public protection under section 225 of the Criminal Justice Act 2003, a sentence of detention for public protection under section 226 of that Act or an extended sentence under section 227 or 228 of that Act”

F965(3) .....

**Textual Amendments**  
**F965** Sch. 32 para. 18(3) repealed (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 25 Pt. 2](#) (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

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**Commencement Information**  
**I665** Sch. 32 para. 18 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(11\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Armed Forces Act 1976 (c. 52)*

19 F966 .....

**Textual Amendments**  
**F966** Sch. 32 para. 19 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

*Bail Act 1976 (c. 63)*

20 The Bail Act 1976 is amended as follows.

**Commencement Information**  
**I666** Sch. 32 para. 20 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(12\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 21 (1) Section 2 (other definitions) is amended as follows.
- (2) In subsection (1)(d)—
  - (a) the words “placing the offender on probation or” are omitted, and
  - (b) for “him” there is substituted “ the offender ”.

F967(3) .....

**Textual Amendments**  
**F967** Sch. 32 para. 21(3) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with s. 413(4)(5), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)

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**Commencement Information**

**I667** Sch. 32 para. 21 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(12) (subject to **art. 2(2)**, Sch. 2)

- 22 In section 4 (general right to bail of accused persons and others), in subsection (3), for the words from “to be dealt with” onwards there is substituted “or the Crown Court to be dealt with under—
- (a) Part 2 of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach of certain youth community orders), or
  - (b) Part 2 of Schedule 8 to the Criminal Justice Act 2003 (breach of requirement of community order).”

**Commencement Information**

**I668** Sch. 32 para. 22 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(12) (subject to **art. 2(2)**, Sch. 2)

- 23 In Part 3 of Schedule 1 (interpretation), in the definition of “default” in paragraph 4, for the words from “Part II” onwards there is substituted “ Part 2 of Schedule 8 to the Criminal Justice Act 2003 (breach of requirement of order) ”.

**Commencement Information**

**I669** Sch. 32 para. 23 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(12) (subject to **art. 2(2)**, Sch. 2)

*Criminal Law Act 1977 (c. 45)*

<sup>F968</sup>24 .....

**Textual Amendments**

**F968** Sch. 32 para. 24 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

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

- 25 The Magistrates' Courts Act 1980 is amended as follows.

**Commencement Information**

**I670** Sch. 32 para. 25 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(14) (subject to **art. 2(2)**, Sch. 2)

<sup>F969</sup>26 .....



**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F969** Sch. 32 para. 26 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with s. 413(4)(5), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### PROSPECTIVE

27 In section 33 (maximum penalties on summary conviction in pursuance of section 22), in subsection (1)(a), for “3 months” there is substituted “ 51 weeks ”.

#### PROSPECTIVE

28 In section 85 (power to remit fine), in subsection (2A), for “section 35(2)(a) or (b) of the Crime (Sentences) Act 1997” there is substituted “ section 300(2) of the Criminal Justice Act 2003 ”.

**F970**<sup>29</sup> .....

#### Textual Amendments

**F970** Sch. 32 para. 29 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 39](#); S.I. 2012/2906, art. 2(h)

#### Commencement Information

**I671** Sch. 32 para. 29 partly in force; Sch. 32 para. 29 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 29 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

30 In section 133 (consecutive terms of imprisonment), in subsection (1), for “Subject to section 84 of the Powers of Criminal Courts (Sentencing) Act 2000,” there is substituted “ Subject to section 265 of the Criminal Justice Act 2003, ”.

#### Commencement Information

**I672** Sch. 32 para. 30 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(14\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### *Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)*

31 In Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (ineligibility for and disqualification and excusal from jury service), in Part 2, in paragraph (bb), for sub-paragraph (v) there is substituted—

“(v) a community order within the meaning of section 177 of the Criminal Justice Act 2003;

(va) a youth community order as defined by section 33 of the Powers of Criminal Courts (Sentencing) Act 2000;”.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Commencement Information**

**I673** Sch. 32 para. 31 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(15) (subject to **art. 2(2)**, Sch. 2)

*Public Passenger Vehicles Act 1981 (c. 14)*

- 32 (1) In Schedule 3 to the Public Passenger Vehicles Act 1981 (supplementary provisions as to qualifications for PSV operators licence), paragraph 1 is amended as follows.
- (2) In sub-paragraph (4)(a), for “a community service order for more than sixty hours” there is substituted “ a community order requiring the offender to perform unpaid work for more than sixty hours ”.
- (3) In sub-paragraph (6), for the words from “ “a community” onwards there is substituted “ “a community order” means an order under section 177 of the Criminal Justice Act 2003, a community punishment order made before the commencement of that section or a community service order under the Community Service by Offenders (Scotland) Act 1978”.

**Commencement Information**

**I674** Sch. 32 para. 32 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(16) (subject to **art. 2(2)**, Sch. 2)

PROSPECTIVE

*Criminal Attempts Act 1981 (c. 47)*

**F971** 33 .....

**Textual Amendments**

**F971** Sch. 32 para. 33 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

*Criminal Justice Act 1982 (c. 48)*

34 The Criminal Justice Act 1982 is amended as follows.

**Commencement Information**

**I675** Sch. 32 para. 34 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(17) (subject to **art. 2(2)**, Sch. 2)

35 In section 32 (early release of prisoners), in subsection (1)(a), after “life” there is inserted “ , imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or an extended sentence under section 227 of that Act ”.

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*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I676** Sch. 32 para. 35 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(17) (subject to **art. 2(2)**, Sch. 2)

- 36 (1) Part 3 of Schedule 13 (reciprocal arrangements (Northern Ireland): persons residing in England and Wales or Scotland) is amended as follows.
- (2) In paragraph 7—
- (a) in sub-paragraph (2)(b), for “such orders” there is substituted “ an unpaid work requirement of a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) ”, and
  - (b) in sub-paragraph (3)(b), for the words from “community service orders” onwards there is substituted “ community orders within the meaning of Part 12 of the Criminal Justice Act 2003 conferred on responsible officers by that Part of that Act. ”.
- (3) For paragraph 9(3) there is substituted—
- “(3) Subject to the following provisions of this paragraph—
- (a) a community service order made or amended in the circumstances specified in paragraph 7 above shall be treated as if it were a community order made in England and Wales under section 177 of the Criminal Justice Act 2003 and the provisions of Part 12 of that Act (so far as relating to such orders) shall apply accordingly; and
  - (b) a community service order made or amended in the circumstances specified in paragraph 8 above shall be treated as if it were a community service order made in Scotland and the legislation relating to community service orders in Scotland shall apply accordingly.”
- (4) In paragraph 9(4)(a), after “community service orders” there is inserted “ or, as the case may be, community orders (within the meaning of Part 12 of the Criminal Justice Act 2003) ”.
- (5) In paragraph 9(5), after “a community service order” there is inserted “ or, as the case may be, a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) ”.
- (6) In paragraph 9(6)—
- (a) after “community service orders”, where first occurring, there is inserted “ or, as the case may be, community orders (within the meaning of Part 12 of the Criminal Justice Act 2003) ”, and
  - (b) in paragraph (b)(i), for “the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ Part 12 of the Criminal Justice Act 2003 ”.

#### Commencement Information

**I677** Sch. 32 para. 36 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(17) (subject to **art. 2(2)**, Sch. 2)

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Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Mental Health Act 1983 (c. 20)*

37 The Mental Health Act 1983 is amended as follows.

**Commencement Information**

**I678** Sch. 32 para. 37 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(18) (subject to **art. 2(2)**, Sch. 2)

- 38 In section 37 (powers of courts to order hospital admission or guardianship)—
- (a) in subsection (1), the words “or falls to be imposed under section 109(2) of the Powers of Criminal Courts (Sentencing) Act 2000” are omitted,
  - (b) for subsections (1A) and (1B) there is substituted —
    - “(1A) In the case of an offence the sentence for which would otherwise fall to be imposed—
      - (a) under section 51A(2) of the Firearms Act 1968,
      - (b) under section 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000, or
      - (c) under any of sections 225 to 228 of the Criminal Justice Act 2003,nothing in those provisions shall prevent a court from making an order under subsection (1) above for the admission of the offender to a hospital.
    - (1B) References in subsection (1A) above to a sentence falling to be imposed under any of the provisions mentioned in that subsection are to be read in accordance with section 305(4) of the Criminal Justice Act 2003.”
  - (c) in subsection (8), for “probation order” there is substituted “community order (within the meaning of Part 12 of the Criminal Justice Act 2003)”.

**Commencement Information**

**I679** Sch. 32 para. 38 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(18) (subject to **art. 2(2)**, Sch. 2)

- 39 In section 45A (powers of higher courts to direct hospital admission), in subsection (1)(b), the words from “except” to “1997” are omitted.

**Commencement Information**

**I680** Sch. 32 para. 39 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(18) (subject to **art. 2(2)**, Sch. 2)

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

40 The Repatriation of Prisoners Act 1984 is amended as follows.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I681** Sch. 32 para. 40 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(19) (subject to **art. 2(2)**, Sch. 2)

41 In section 2 (transfer out of the United Kingdom), in subsection (4)(b), for sub-paragraph (i) there is substituted—

“(i) released on licence under section 28(5) of the Crime (Sentences) Act 1997 or under section 244 or 246 of the Criminal Justice Act 2003; or”.

#### Commencement Information

**I682** Sch. 32 para. 41 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(19) (subject to **art. 2(2)**, Sch. 2)

42 In section 3 (transfer into the United Kingdom), subsection (9) is omitted.

43 (1) The Schedule (operation of certain enactments in relation to the prisoner) is amended as follows in relation to prisoners repatriated to England and Wales.

(2) In paragraph 2, for sub-paragraphs (1A) and (2) there is substituted—

“(2) If the warrant specifies a period to be taken into account for the purposes of this paragraph, the amount of time the prisoner has served shall, so far only as the question whether he has served a particular part of a life sentence is concerned, be deemed to be increased by that period.

(3) Where the prisoner’s sentence is for a term of less than twelve months, Chapter 6 of Part 12 of the Criminal Justice Act 2003 shall apply as if the sentence were for a term of twelve months or more.

(4) In this paragraph—

“the enactments relating to release on licence” means section 28(5) and (7) of the Crime (Sentences) Act 1997 and Chapter 6 of Part 12 of the Criminal Justice Act 2003;

“sentence”, means the provision included in the warrant which is equivalent to sentence.”.

(3) Paragraph 3 is omitted.

#### Commencement Information

**I683** Sch. 32 para. 43 wholly in force at 4.4.2005; Sch. 32 para. 43(3) in force at 18.12.2003, see s. 336(2); Sch. 32 para. 43 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(19) (subject to **art. 2(2)**, Sch. 2)

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

44 In section 38 of the Police and Criminal Evidence Act 1984 (duties of custody officer after charge), for the definitions of “sexual offence” and “violent offence” in subsection (6A) there is substituted—

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

““sexual offence” means an offence specified in Part 2 of Schedule 15 to the Criminal Justice Act 2003;

“violent offence” means murder or an offence specified in Part 1 of that Schedule;”.

**Commencement Information**

**I684** Sch. 32 para. 44 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(20) (subject to **art. 2(2)**, Sch. 2)

*Criminal Justice Act 1988 (c. 33)*

45 The Criminal Justice Act 1988 is amended as follows.

**Commencement Information**

**I685** Sch. 32 para. 45 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(21) (subject to **art. 2(2)**, Sch. 2)

46 In section 36 (reviews of sentencing), in subsection (2), for the words from “erred in law” onwards there is substituted—

- “(a) erred in law as to his powers of sentencing; or
- (b) failed to impose a sentence required by—
  - (i) section 51A(2) of the Firearms Act 1968;
  - (ii) section 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000; or
  - (iii) any of sections 225 to 228 of the Criminal Justice Act 2003.”

**Commencement Information**

**I686** Sch. 32 para. 46 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(21) (subject to **art. 2(2)**, Sch. 2)

47 In section 50 (suspended and partly suspended sentences on certain civilians in courts-martial and Standing Civilian Courts), in subsection (3)(b)(i), for “Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “Criminal Justice Act 2003”.

**Commencement Information**

**I687** Sch. 32 para. 47 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(21) (subject to **art. 2(2)**, Sch. 2)

*Firearms (Amendment) Act 1988 (c. 45)*

48 The Firearms (Amendment) Act 1988 is amended as follows.

49 In section 1 (prohibited weapons and ammunition), in subsection (4A) after paragraph (b) there is inserted—

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- “(bb) may amend subsection (1A)(a) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences: power to detain for specified period) so as to include a reference to any provision added by the order to section 5(1) of the principal Act,
- (bc) may amend section 50(5A)(a), 68(4A)(a) or 170(4A)(a) of the Customs and Excise Management Act 1979 (offences relating to improper importation or exportation) so as to include a reference to anything added by the order to section 5(1) of the principal Act”.
- 50 In section 27(4) (which relates to Northern Ireland), after “Except for” there is inserted “section 1, so far as enabling provision to be made amending the Customs and Excise Management Act 1979, and”.

## PROSPECTIVE

*Road Traffic Act 1988 (c. 52)*

- 51 In section 164 of the Road Traffic Act 1988 (power of constables to require production of driving licence and in certain cases statement of date of birth), in subsection (5), for “section 40 of the Crime (Sentences) Act 1997” there is substituted “section 301 of the Criminal Justice Act 2003”.

*Road Traffic Offenders Act 1988 (c. 53)*

- 52 The Road Traffic Offenders Act 1988 is amended as follows.

**Commencement Information**

**I688** Sch. 32 para. 52 partly in force; Sch. 32 para. 52 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 52 in force for certain purposes at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 42(22) (subject to art. 2(2), Sch. 2)

## PROSPECTIVE

- 53 In section 27 (production of licence), in subsection (3), for “section 40 of the Crime (Sentences) Act 1997” there is substituted “section 301 of the Criminal Justice Act 2003”.

<sup>F972</sup>54 .....

**Textual Amendments**

**F972** Sch. 32 para. 54 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

*Football Spectators Act 1989 (c. 37)*

- 55 The Football Spectators Act 1989 is amended as follows.



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**Commencement Information**

**I689** Sch. 32 para. 55 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(23) (subject to **art. 2(2)**, Sch. 2)

56 In section 7 (disqualification for membership of scheme), subsection (9) is omitted.

**Commencement Information**

**I690** Sch. 32 para. 56 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(23) (subject to **art. 2(2)**, Sch. 2)

<sup>F973</sup>57 .....

**Textual Amendments**

**F973** Sch. 32 para. 57 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 39**; S.I. 2012/2906, art. 2(h)

**Commencement Information**

**I691** Sch. 32 para. 57 partly in force; Sch. 32 para. 57 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 57 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.

<sup>F974</sup>58 .....

**Textual Amendments**

**F974** Sch. 32 para. 58 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 39**; S.I. 2012/2906, art. 2(h)

**Commencement Information**

**I692** Sch. 32 para. 58 partly in force; Sch. 32 para. 58 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 58 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.

*Children Act 1989 (c. 41)*

59 The Children Act 1989 is amended as follows.

**Commencement Information**

**I693** Sch. 32 para. 59 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(24) (subject to **art. 2(2)**, Sch. 2)

- 60 (1) Section 68 (persons disqualified from being foster parents) is amended as follows.
- (2) In subsection (2)(d), the words “a probation order has been made in respect of him or he has been” are omitted.
- (3) After subsection (2) there is inserted—



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“(2A) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of subsection (2)(d).”

**Commencement Information**

**I694** Sch. 32 para. 60 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(24\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

61 (1) In Schedule 9A (child minding and day care for young children), paragraph 4 is amended as follows.

(2) In sub-paragraph (2)(g), the words “placed on probation or” are omitted.

(3) At the end there is inserted—

“(7) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of this paragraph.”

**Commencement Information**

**I695** Sch. 32 para. 61 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(24\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Criminal Justice Act 1991 (c. 53)*

62 The Criminal Justice Act 1991 is amended as follows.

**Commencement Information**

**I696** Sch. 32 para. 62 partly in force; Sch. 32 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 62 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(25\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

PROSPECTIVE

63 Section 65 (supervision of young offenders after release) is omitted.

64 (1) Schedule 3 (reciprocal enforcement of certain orders) is amended as follows.

(2) In paragraph 10(3)(d), for the words from “paragraph 3 of Schedule 2” onwards there is substituted “ section 201 of the Criminal Justice Act 2003 ”.

(3) In paragraph 11(2) —

(a) in paragraph (a)—

(i) for “probation order” there is substituted “ community order ”, and

(ii) <sup>F975</sup> .....

(b) for paragraph (b) there is substituted—

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“(b) the provisions of Part 12 of that Act (so far as relating to such orders) shall apply accordingly.”.

(4) In paragraph 11(3), for paragraphs (a) and (b) there is substituted—

- “(a) the requirements of Part 12 of the Criminal Justice Act 2003 relating to community orders (within the meaning of that Part);
- (b) the powers of the home court under Schedule 8 to that Act, as modified by this paragraph; and”.

(5) In paragraph 11(4), for the words from “probation order made by a court” onwards there is substituted “community order made by a court in England and Wales under section 177 of the Criminal Justice Act 2003, except a power conferred by paragraph 9(1)(b) or (c) or 13(2) of Schedule 8 to that Act”.

<sup>F976</sup>(6) .....

**Textual Amendments**

**F975** Sch. 32 para. 64(3)(a)(ii) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

**F976** Sch. 32 para. 64(6) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with s. 413(4)(5), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)

**Commencement Information**

**I697** Sch. 32 para. 64 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(25\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Aggravated Vehicle-Taking Act 1992 (c. 11)*

<sup>F977</sup>65 .....

**Textual Amendments**

**F977** Sch. 32 para. 65 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](#)

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

66 In section 10 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (life prisoners transferred to Scotland)—

- (a) in subsection (1)—
  - (i) in paragraph (a), sub-paragraph (i), and the succeeding “or”, are omitted, and
  - (ii) after paragraph (a)(ii) there is inserted “or
  - (iii) subsections (5) to (8) of section 28 (early release of life prisoners to whom that section applies) of the Crime (Sentences) Act 1997 (c. 43) (in this section, the “1997 Act”) apply by virtue of an order made under section 28(2)(b) of that Act (while that provision was in force) or an

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- order made under section 269(2) of, or paragraph 3(1)(a) of Schedule 22 to, the Criminal Justice Act 2003;”, and
- (iii) for “28(2)(b) or 82A(2) or paragraph” there is substituted “ 82A(2), 28(2)(b) or 269(2) or paragraph 3(1)(a) or ”;
- (b) after subsection (1) there is inserted—
- “(1AA) This Part of this Act, except section 2(9), applies also to a transferred life prisoner—
- (a) who is transferred from England and Wales on or after the date on which section 269 of the Criminal Justice Act 2003 comes into force,
- (b) in relation to whom paragraph 3 of Schedule 22 to that Act applies by virtue of paragraph 2(a) of that Schedule, but
- (c) in respect of whom, under the paragraph so applying, no order has been made,
- as if the prisoner were a life prisoner within the meaning of section 2 of this Act and the punishment part of his sentence within the meaning of that section were the notified minimum term defined by paragraph 3(4) of that Schedule.”; and
- (c) in subsection (5)(b)—
- (i) for “the Crime (Sentences) Act 1997” there is substituted “ the 1997 Act ”, and
- (ii) after the words “Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)” there is inserted “ section 269(2) of, or paragraph 3(1)(a) of Schedule 22 to, the Criminal Justice Act 2003, ”.

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

- 67 In section 25 of the Criminal Justice and Public Order Act 1994 (no bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences), in paragraph (c) of the definition of “conviction” in subsection (5) —
- (a) the words “placing the offender on probation or” are omitted, and
- (b) for “him” there is substituted “ the offender ”.

**Commencement Information**

**I698** Sch. 32 para. 67 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(27\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Goods Vehicles (Licensing of Operators) Act 1995 (c. 23)*

- 68 (1) In Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995 (qualifications for standard licence), paragraph 3 is amended as follows.
- <sup>F978</sup>(2) .....
- (3) In sub-paragraph (2)(c), for “community service order” there is substituted “ community order ”.

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(4) For sub-paragraph (3)(b), there is substituted—

“(b) “community order” means a community order under section 177 of the Criminal Justice Act 2003, a community punishment order made under section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community service order under the Community Service by Offenders (Scotland) Act 1978.”.

**Textual Amendments**

**F978** Sch. 32 para. 68(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 39](#); S.I. 2012/2906, art. 2(h)

**Commencement Information**

**I699** Sch. 32 para. 68 partly in force; Sch. 32 para. 68 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 68(1)(3)(4) in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(28\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Criminal Procedure (Scotland) Act 1995 (c. 46)*

69 **F979** .....

**Textual Amendments**

**F979** Sch. 32 para. 69 repealed (S.) (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206, [Sch. 2 para. 49](#); S.S.I. 2010/413, [art. 2\(1\)](#), Sch. (with art. 3(1))

70 **F980** .....

**Textual Amendments**

**F980** Sch. 32 para. 70 repealed (S.) (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206, [Sch. 2 para. 49](#); S.S.I. 2010/413, [art. 2\(1\)](#), Sch. (with art. 3(1))

71 **F981** .....

**Textual Amendments**

**F981** Sch. 32 para. 71 repealed (S.) (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206, [Sch. 2 para. 49](#); S.S.I. 2010/413, [art. 2\(1\)](#), Sch. (with art. 3(1))

72 **F982** .....

**Textual Amendments**

**F982** Sch. 32 para. 72 repealed (S.) (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 14(2), 206, [Sch. 2 para. 49](#); S.S.I. 2010/413, [art. 2\(1\)](#), Sch. (with art. 3(1))

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### Education Act 1996 (c. 56)

73 F983 .....

#### Textual Amendments

**F983** Sch. 32 para. 73 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); [S.I. 2009/3074](#), [art. 2\(u\)\(xxxi\)](#)

#### Commencement Information

**I700** Sch. 32 para. 73 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(30\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I.24))

74 The Criminal Justice (Northern Ireland) Order 1996 is amended as follows.

#### Commencement Information

**I701** Sch. 32 para. 74 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

75 In Article 2 (interpretation) after paragraph (8) there is inserted—

“(9) For the purposes of this Order, a sentence falls to be imposed under paragraph (2) of Article 52A of the Firearms (Northern Ireland) Order 1981 if it is required by that paragraph and the court is not of the opinion there mentioned.”

#### Commencement Information

**I702** Sch. 32 para. 75 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

76 In Article 4 (absolute and conditional discharge), in paragraph (1), for “(not being an offence for which the sentence is fixed by law)” there is substituted “ (not being an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981) ”.

#### Commencement Information

**I703** Sch. 32 para. 76 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

77 In Article 10 (probation orders), in paragraph (1) for “(not being an offence for which the sentence is fixed by law)” there is substituted “ (not being an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981) ”.

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**Commencement Information**

**I704** Sch. 32 para. 77 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(31) (subject to **art. 2(2)**, Sch. 2)

- 78 (1) Article 13 (community service orders) is amended as follows.
- (2) In paragraph (1) for “(not being an offence for which the sentence is fixed by law)” there is substituted “(not being an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981)”.
- (3) In paragraph (4)(b) as it has effect pursuant to paragraph 7(1) of Schedule 13 to the Criminal Justice Act 1982 (reciprocal arrangements), for “such orders” there is substituted “an unpaid work requirement of a community order (within the meaning of Part 12 of the Criminal Justice Act 2003)”.

**Commencement Information**

**I705** Sch. 32 para. 78 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(31) (subject to **art. 2(2)**, Sch. 2)

- 79 In Article 15 (orders combining probation and community service), in paragraph (1) for “(not being an offence for which the sentence is fixed by law)” there is substituted “(not being an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981)”.

**Commencement Information**

**I706** Sch. 32 para. 79 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(31) (subject to **art. 2(2)**, Sch. 2)

- 80 **F984** .....

**Textual Amendments**

**F984** Sch. 32 para. 80 repealed (1.4.2009) by *The Criminal Justice (Northern Ireland) Order 2008* (S.I. 2008/1216 (N.I. 1)), **art. 102**, **Sch. 6 Pt. 1**; S.R. 2009/120, **art. 2**, Sch. 1 para. 19(e) (subject to Sch. 2)

**Commencement Information**

**I707** Sch. 32 para. 80 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(31) (subject to **art. 2(2)**, Sch. 2)

- 81 **F985** .....

**Textual Amendments**

**F985** Sch. 32 para. 81 repealed (1.4.2009) by *The Criminal Justice (Northern Ireland) Order 2008* (S.I. 2008/1216 (N.I. 1)), **art. 102**, **Sch. 6 Pt. 1**; S.R. 2009/120, **art. 2**, Sch. 1 para. 19(e) (subject to Sch. 2)

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**Commencement Information**

**I708** Sch. 32 para. 81 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(31) (subject to **art. 2(2)**, Sch. 2)

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

82 The Crime (Sentences) Act 1997 is amended as follows.

**Commencement Information**

**I709** Sch. 32 para. 82 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(32) (subject to **art. 2(2)**, Sch. 2)

- 83 (1) Section 31 (duration and conditions of licences) is amended as follows.
- (2) In subsection (3), for the words from “except” onwards there is substituted “ except in accordance with recommendations of the Parole Board ”.
- (3) Subsection (4) is omitted.
- (4) In subsection (6), for “section 46(3) of the 1991 Act” there is substituted “ section 259 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I710** Sch. 32 para. 83 wholly in force at 4.4.2005; Sch. 32 para. 83(1)-(3) in force at 18.12.2003, see s. 336(2); Sch. 32 para. 83(4) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(32) (subject to **art. 2(2)**, Sch. 2)

84 In section 32 (recall of life prisoners while on licence) for subsection (5) there is substituted—

“(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.”

85 (1) Schedule 1 (transfers of prisoners within the British Islands) is amended as follows.

(2) In paragraph 6, after sub-paragraph (3) there is inserted—

“(4) In this Part of this Schedule—

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

“custody plus order” has the meaning given by section 181(4) of that Act;

“intermittent custody order” has the meaning given by section 183(2) of that Act.”

(3) In paragraph 8 (restricted transfers from England and Wales to Scotland)—

(a) for sub-paragraph (2)(a) there is substituted—

“(a) sections 241, 244, 247 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 102 to 104 of the Powers of Criminal Courts (Sentencing)

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- 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) for sub-paragraph (4)(a) there is substituted—
- “(a) sections 241, 249 to 252 and 254 to 264 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”, and
- (c) for sub-paragraphs (5) to (7) there is substituted—
- “(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”.
- (“) 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 secure accommodation were a reference to secure accommodation within the meaning of Part 2 of the Children (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 local probation board 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,



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- (e) in section 103, any reference to a [<sup>F986</sup>local justice area] were a reference to a local government area within the meaning of the Local Government etc. (Scotland) Act 1994,
  - (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,
  - (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.”
- (4) In paragraph 9 (restricted transfers from England and Wales to Northern Ireland)—
- (a) for sub-paragraph (2)(a) there is substituted—
    - “(a) sections 241, 244, 247 to 252 and 254 to 264 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”,
  - (b) for sub-paragraph (4)(a) there is substituted—
    - “(a) sections 241, 249 to 252 and 254 to 264 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;

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- (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”,
- (c) for sub-paragraphs (5) to (7) there is substituted—

“(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”.”

- (5) In paragraph 15 (unrestricted transfers: general provisions), sub-paragraph (5) is omitted.

**Textual Amendments**

**F986** Words in Sch. 32 para. 85(3)(c) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 112\(a\)](#)

**Commencement Information**

**I711** Sch. 32 para. 85 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(32\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 86 In Schedule 2 (repatriation of prisoners to the British Islands) paragraphs 2 and 3 are omitted.

**Commencement Information**

**I712** Sch. 32 para. 86 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(32\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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

- 87 The Crime and Disorder Act 1998 is amended as follows.

**Commencement Information**

**I713** Sch. 32 para. 87 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(33\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

**F987** 88 .....

**Textual Amendments**

**F987** Sch. 32 para. 88 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

- 89 (1) Section 38 (local provision of youth justice services) is amended as follows.

- (2) **F988** .....

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(3) In subsection (4)(i), after “1997 Act”)” there is inserted “ or by virtue of conditions imposed under section 250 of the Criminal Justice Act 2003 ”.

**Textual Amendments**

**F988** Sch. 32 para. 89(2) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

**Commencement Information**

**I714** Sch. 32 para. 89 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(33\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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

F989<sup>90</sup> .....

**Textual Amendments**

**F989** Sch. 32 paras. 90-94 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

F989<sup>91</sup> .....

**Textual Amendments**

**F989** Sch. 32 paras. 90-94 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

F989<sup>92</sup> .....

**Textual Amendments**

**F989** Sch. 32 paras. 90-94 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

F989<sup>93</sup> .....

**Textual Amendments**

**F989** Sch. 32 paras. 90-94 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

F989<sup>94</sup> .....

**Textual Amendments**

**F989** Sch. 32 paras. 90-94 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

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[<sup>F990</sup>For section 33 there is substituted—

**“Meaning of “youth community order” and “community sentence”**

- (1) In this Act “youth community order” means any of the following orders—
- (a) a curfew order;
  - (b) an exclusion order;
  - (c) an attendance centre order;
  - (d) a supervision order;
  - (e) an action plan order.
- (2) In this Act “community sentence” means a sentence which consists of or includes—
- (a) a community order under section 177 of the Criminal Justice Act 2003, or
  - (b) one or more youth community orders.”]

**Textual Amendments**

**F990** Sch. 32 para. 95 repealed (30.11.2009 for specified purposes and otherwise prosp.) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 149, 153, Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

**Commencement Information**

**I715** Sch. 32 para. 95 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

- 96 (1) Section 36B (electronic monitoring of requirements in community orders) is amended as follows.
- (2) In the heading for “**community orders**” there is substituted “**youth community orders**”, and
- (3) In subsection (1)—
- (a) for “to (4)” there is substituted “and (3)”, and
  - (b) for “community order” there is substituted “youth community order”.
- (4) In subsection (2) and (6)(a), for “community order” there is substituted “youth community order”.

**Commencement Information**

**I716** Sch. 32 para. 96 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

97

<sup>F991</sup> .....

**Textual Amendments**

**F991** Sch. 32 para. 97 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 149, 153, Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

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**Commencement Information**

I717 Sch. 32 para. 97 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

98 F992 .....

**Textual Amendments**

F992 Sch. 32 para. 98 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, Sch. 28 Pt. 1; S.I. 2009/3074, art. 2(u)(xxxi)

**Commencement Information**

I718 Sch. 32 para. 98 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

99 F993 .....

**Textual Amendments**

F993 Sch. 32 para. 99 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, Sch. 28 Pt. 1; S.I. 2009/3074, art. 2(u)(xxxi)

100 F994 .....

**Textual Amendments**

F994 Sch. 32 para. 100 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, Sch. 28 Pt. 1; S.I. 2009/3074, art. 2(u)(xxxi)

**Commencement Information**

I719 Sch. 32 para. 100 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

101 F995 .....

**Textual Amendments**

F995 Sch. 32 para. 101 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, Sch. 28 Pt. 1; S.I. 2009/3074, art. 2(u)(xxxi)

**Commencement Information**

I720 Sch. 32 para. 101 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

102 (1) Section 60 (attendance centre orders) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ” and for “21” there is substituted “ 16 ”, and

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- (b) in paragraph (b), for “[<sup>F996</sup>18]” there is substituted “ 16 ”, and
  - (c) paragraph (c) and the word “or” immediately preceding it are omitted.
- (3) In subsection (4), for paragraphs (a) and (b) there is substituted “ shall not exceed 24 ”.
- (4) In subsection (7), for “community order” there is substituted “ youth community order ”.

**Textual Amendments**

**F996** Word in Sch. 32 para. 102(2)(b) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 13 para. 7](#); S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))

**Commencement Information**

**I721** Sch. 32 para. 102 partly in force; Sch. 32 para. 102 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 102(1)(2)(a)(4) in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

103 <sup>F997</sup> .....

**Textual Amendments**

**F997** Sch. 32 para. 103 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

**Commencement Information**

**I722** Sch. 32 para. 103 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

104 <sup>F998</sup> .....

**Textual Amendments**

**F998** Sch. 32 para. 104 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

**Commencement Information**

**I723** Sch. 32 para. 104 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

105 <sup>F999</sup> .....

**Textual Amendments**

**F999** Sch. 32 para. 105 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

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**Commencement Information**

**I724** Sch. 32 para. 105 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(34) (subject to **art. 2(2)**, Sch. 2)

F1000 106 .....

**Textual Amendments**

**F1000**Sch. 32 para. 106 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

107 In section 74 (requirements and provisions of reparation order, and obligations of person subject to it), in subsection (3)(a), after “community order” there is inserted “or any youth community order”.

**Commencement Information**

**I725** Sch. 32 para. 107 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(34) (subject to **art. 2(2)**, Sch. 2)

F1001 108 .....

**Textual Amendments**

**F1001**Sch. 32 paras. 108-121 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

F1001 109 .....

**Textual Amendments**

**F1001**Sch. 32 paras. 108-121 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

F1001 110 .....

**Textual Amendments**

**F1001**Sch. 32 paras. 108-121 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

F1001 111 .....

**Textual Amendments**

**F1001**Sch. 32 paras. 108-121 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

F1001 112 .....

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**Textual Amendments**

**F1001** Sch. 32 paras. 108-121 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

**F1001** 113 .....

**Textual Amendments**

**F1001** Sch. 32 paras. 108-121 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

**F1001** 114 .....

**Textual Amendments**

**F1001** Sch. 32 paras. 108-121 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

**F1001** 115 .....

**Textual Amendments**

**F1001** Sch. 32 paras. 108-121 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

**F1001** 116 .....

**Textual Amendments**

**F1001** Sch. 32 paras. 108-121 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

**F1001** 117 .....

**Textual Amendments**

**F1001** Sch. 32 paras. 108-121 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

**F1001** 118 .....

**Textual Amendments**

**F1001** Sch. 32 paras. 108-121 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

**F1001** 119 .....



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**Textual Amendments**

**F1001**Sch. 32 paras. 108-121 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

**F1001**120 .....

**Textual Amendments**

**F1001**Sch. 32 paras. 108-121 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

**F1001**121 .....

**Textual Amendments**

**F1001**Sch. 32 paras. 108-121 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

122 **F1002** .....

**Textual Amendments**

**F1002**Sch. 32 para. 122 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2(u)(xxxi)**

- 123 (1) Section 163 (interpretation) is amended as follows.
- (2) In the definition of “attendance centre” for “section 62(2) above” there is substituted “ section 221(2) of the Criminal Justice Act 2003 ”.
- (3) In the definition of “attendance centre order” for the words from “by virtue of” to “Schedule 3” there is substituted “ by virtue of paragraph 4(2)(b) or 5(2)(b) of Schedule 3 ”.

**F1003**(4) .....

(5) **F1004** .....

**F1005**(6) .....

**F1005**(7) .....

- (8) At the end there is inserted—
  - ““youth community order” has the meaning given by section 33(1) above.”.

**Textual Amendments**

**F1003**Sch. 32 para. 123(4) 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

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**F1004**Sch. 32 para. 123(5) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2(u)(xxxi)**

**F1005**Sch. 32 para. 123(6)(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

**Modifications etc. (not altering text)**

**C85** Sch. 32 para. 123 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1, 5(2)(3)**; S.I. 2012/1236, reg. 2

**Commencement Information**

**I726** Sch. 32 para. 123 partly in force; Sch. 32 para. 123 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 123(5) in force for certain purposes and Sch. 32 para. 123(1)(2)(4)(6)-(8) in force at 4.4.2005 by S.I. 2005/950, **arts. 2, Sch. 1 para. 42(34)** (subject to **art. 2(2), Sch. 2**)

**F1006**124 .....

**Textual Amendments**

**F1006**Sch. 32 para. 124-126 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

**F1006**125 .....

**Textual Amendments**

**F1006**Sch. 32 para. 124-126 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

**F1006**126 .....

**Textual Amendments**

**F1006**Sch. 32 para. 124-126 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

127 **F1007** .....

**Textual Amendments**

**F1007**Sch. 32 para. 127 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2(u)(xxxi)**

**Commencement Information**

**I727** Sch. 32 para. 127 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1), Sch. 1 para. 42(34)** (subject to **art. 2(2), Sch. 2**)

128 **F1008** .....

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#### Textual Amendments

**F1008**Sch. 32 para. 128 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

#### Commencement Information

**I728** Sch. 32 para. 128 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

129 **F1009** .....

#### Textual Amendments

**F1009**Sch. 32 para. 129 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

#### Commencement Information

**I729** Sch. 32 para. 129 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

### *Child Support, Pensions and Social Security Act 2000 (c. 19)*

130 **F1010** .....

#### Textual Amendments

**F1010**Sch. 32 paras. 130-132 repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), ss. 58, 61, [Sch. 7 Pt. 3](#); S.I. 2010/293, [art. 2\(3\)\(b\)\(vi\)](#)

131 **F1011** .....

#### Textual Amendments

**F1011**Sch. 32 paras. 130-132 repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), ss. 58, 61, [Sch. 7 Pt. 3](#); S.I. 2010/293, [art. 2\(3\)\(b\)\(vi\)](#)

132 **F1012** .....

#### Textual Amendments

**F1012**Sch. 32 paras. 130-132 repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), ss. 58, 61, [Sch. 7 Pt. 3](#); S.I. 2010/293, [art. 2\(3\)\(b\)\(vi\)](#)

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

133 The Criminal Justice and Court Services Act 2000 is amended as follows.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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#### Commencement Information

**I730** Sch. 32 para. 133 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(36\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 134 In section 1 (purposes of Chapter 1 of Part 1 of the Act), in subsection (2)—
- (a) in paragraph (a), after “community orders” there is inserted “ (as defined by section 177 of the Criminal Justice Act 2003) ”, and
  - (b) after paragraph (c) there is inserted—
    - “(d) giving effect to suspended sentence orders (as defined by section 189 of the Criminal Justice Act 2003).”

#### Commencement Information

**I731** Sch. 32 para. 134 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(36\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 135 In section 42 (interpretation of Part 2), in subsection (2)(a), for “section 119 of the Powers of Criminal Court (Sentencing) Act 2000” there is substituted “ paragraph 8(2)(a) or (b) of Schedule 12 of the Criminal Justice Act 2003 ”.

#### Commencement Information

**I732** Sch. 32 para. 135 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(36\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 136 (1) Section 62 (release on licence etc: conditions as to monitoring) is amended as follows.
- (2) For subsection (3) there is substituted—
- “(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).”
- (3) In subsection (5) after paragraph (e) there is inserted “, and
- (f) a sentence of detention under section 226 or 228 of the Criminal Justice Act 2003”.

#### Commencement Information

**I733** Sch. 32 para. 136 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(36\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 137 In section 69 (duties of local probation boards in connection with victims of certain offences), in subsection (8), for paragraph (a) there is substituted—
- “(a) murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003,”.

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**Commencement Information**

**I734** Sch. 32 para. 137 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(36) (subject to **art. 2(2)**, Sch. 2)

138 **F1013** .....

**Textual Amendments**

**F1013**Sch. 32 para. 138 repealed (30.11.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, ss. 149, 153, **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2(u)(xxxi)**

**Commencement Information**

**I735** Sch. 32 para. 138 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(36) (subject to **art. 2(2)**, Sch. 2)

*International Criminal Court Act 2001 (c. 17)*

- 139 (1) Schedule 7 to the International Criminal Court Act 2001 (domestic provisions not applicable to ICC prisoners), is amended as follows.
- (2) In paragraph 2(1), for paragraph (d) there is substituted—  
 “(d) section 240 of the Criminal Justice Act 2003 (crediting of periods of remand in custody).”
- (3) In paragraph 3(1), for “Part 2 of the Criminal Justice Act 1991” there is substituted “sections 244 to 264 of the Criminal Justice Act 2003”.

**Commencement Information**

**I736** Sch. 32 para. 139 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(37) (subject to **art. 2(2)**, Sch. 2)

*Armed Forces Act 2001 (c. 19)*

140 **F1014** .....

**Textual Amendments**

**F1014**Sch. 32 para. 140 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378(2), 383, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

*Proceeds of Crime Act 2002 (c. 29)*

**F1015**141 .....

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#### Textual Amendments

**F1015** Sch. 32 para. 141 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

#### *Sexual Offences Act 2003 (c. 42)*

142 The Sexual Offences Act 2003 is amended as follows.

#### Commencement Information

**I737** Sch. 32 para. 142 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(39\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

143 In section 131 (application of Part 2 to young offenders), after paragraph (j) there is inserted—

“(k) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003,

(l) an extended sentence under section 228 of that Act,”.

#### Commencement Information

**I738** Sch. 32 para. 143 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(39\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

144 In section 133 (general interpretation), at the end of paragraph (a) of the definition of “community order” there is inserted “ (as that Act had effect before the passing of the Criminal Justice Act 2003) ”.

#### Commencement Information

**I739** Sch. 32 para. 144 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(39\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## PART 2

OFFENCES: ABOLITION OF IMPRISONMENT AND CONVERSION TO SUMMARY OFFENCE

PROSPECTIVE

#### *Vagrancy Act 1824 (c. 83)*

145 In section 3 of the Vagrancy Act 1824 (idle and disorderly persons), for the words from “subject to” to the end there is substituted “ it shall be lawful for any justice of the peace to impose on such person (being thereof convicted before him by his own view, or by the confession of such person, or by the evidence on oath of one or more credible witnesses) a fine not exceeding level 3 on the standard scale ”.

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- 146 (1) Section 4 of that Act (rogues and vagabonds) is amended as follows.
- (2) In that section, for the words from “shall be” to the end there is substituted “ commits an offence under this section ”.
- (3) At the end of that section (which becomes subsection (1)) there is inserted—
- “(2) It shall be lawful for any justice of the peace to impose on any person who commits an offence under this section (being thereof convicted before him by the confession of such person, or by the evidence on oath of one or more credible witnesses)—
- (a) in the case of a person convicted of the offence of wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or waggon, and not giving a good account of himself, a fine not exceeding level 1 on the standard scale, and
- (b) in the case of a person convicted of any other offence under this section, a fine not exceeding level 3 on the standard scale.”

PROSPECTIVE

*London Hackney Carriages Act 1843 (c. 86)*

- 147 In section 28 of the London Hackney Carriages Act 1843, after “for every such offence”, there is inserted “ of which he is convicted before the justice ”.

PROSPECTIVE

*Town Police Clauses Act 1847 (c. 89)*

- 148 In section 26 of the Town Police Clauses Act 1847, for the words from “committed by them” to the end, there is substituted “ liable to a fine not exceeding level 3 on the standard scale ”.
- 149 In section 28 of that Act, after “for each offence”, there is inserted “ of which he is convicted before the justice ”.
- 150 In section 29 of that Act, after “for every such offence”, there is inserted “ of which he is convicted before the justice ”.
- 151 In section 36 of that Act, after “liable”, there is inserted “ on conviction before the justices ”.

PROSPECTIVE

*Seamen’s and Soldiers’ False Characters Act 1906 (c. 5)*

- 152 F1016 .....

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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**Textual Amendments**

**F1016**Sch. 32 para. 152 repealed (21.7.2008) by [Statute Law \(Repeals\) Act 2008 \(c. 12\), s. 1\(1\)](#), {Sch. 1 P1. 1 Group 4}

PROSPECTIVE

*Aliens Restriction (Amendment) Act 1919 (c. 92)*

153 In section 3(2) of the Aliens Restriction (Amendment) Act 1919, for “imprisonment for a term not exceeding three months” there is substituted “ a fine not exceeding level 3 on the standard scale ”.

PROSPECTIVE

*Polish Resettlement Act 1947 (c. 19)*

154 In the Schedule to the Polish Resettlement Act 1947, in paragraph 7, for “imprisonment for a term not exceeding three months” there is substituted “ a fine not exceeding level 1 on the standard scale ”.

*Army Act 1955 (3 & 4 Eliz. 2 c. 18)*

155 **F1017** .....

**Textual Amendments**

**F1017**Sch. 32 paras. 155-157 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 378\(2\), 383, Sch. 17; S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

*Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)*

156 **F1018** .....

**Textual Amendments**

**F1018**Sch. 32 paras. 155-157 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 378\(2\), 383, Sch. 17; S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

*Naval Discipline Act 1957 (c. 53)*

157 **F1019** .....



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### Textual Amendments

**F1019**Sch. 32 paras. 155-157 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

PROSPECTIVE

#### *Slaughterhouses Act 1974 (c. 3)*

158 In section 4 of the Slaughterhouses Act 1974, after subsection (5) there is inserted—

“(5A) A person guilty of an offence under subsection (5) above shall be liable to a fine not exceeding level 3 on the standard scale.”

PROSPECTIVE

#### *Water Industry Act 1991 (c. 56)*

159 In Schedule 6 to the Water Industry Act 1991, in paragraph 5(4), for paragraphs (a) and (b) there is substituted “, on summary conviction, to a fine not exceeding level 5 on the standard scale”.

PROSPECTIVE

#### *Water Resources Act 1991 (c. 57)*

160 In section 205(6) of the Water Resources Act 1991, for paragraphs (a) and (b) there is substituted “on summary conviction to a fine not exceeding level 5 on the standard scale”.

PROSPECTIVE

#### *Transport Act 2000 (c. 38)*

161 In section 82(4) of the Transport Act 2000, after “subsection (1)” there is inserted “ or (2) ”.

#### *Reserve Forces Act 1996 (c. 14)*

162 **F1020** .....

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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### Textual Amendments

**F1020**Sch. 32 para. 162 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

## SCHEDULE 33

Section 321

### JURY SERVICE

1 The Juries Act 1974 (c. 23) is amended as follows.

### Commencement Information

**I740** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

2 For section 1 (qualification for jury service) there is substituted—

#### “1 Qualification for jury service

- (1) Subject to the provisions of this Act, every person shall be qualified to serve as a juror in the Crown Court, the High Court and county courts and be liable accordingly to attend for jury service when summoned under this Act if—
- he is for the time being registered as a parliamentary or local government elector and is not less than eighteen nor more than seventy years of age;
  - he has been ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man for any period of at least five years since attaining the age of thirteen;
  - he is not a mentally disordered person; and
  - he is not disqualified for jury service.
- (2) In subsection (1) above “mentally disordered person” means any person listed in Part 1 of Schedule 1 to this Act.
- (3) The persons who are disqualified for jury service are those listed in Part 2 of that Schedule.”

### Commencement Information

**I741** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

3 Section 9(1) (certain persons entitled to be excused from jury service) shall cease to have effect.

### Commencement Information

**I742** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 4 In section 9(2) (discretionary excusal) after “may” there is inserted “, subject to section 9A(1A) of this Act,”.

**Commencement Information**

**I743** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

- 5 After section 9(2) (discretionary excusal) there is inserted—
- “(2A) Without prejudice to subsection (2) above, the appropriate officer shall excuse a full-time serving member of Her Majesty’s naval, military or air forces from attending in pursuance of a summons if—
- (a) that member’s commanding officer certifies to the appropriate officer that it would be prejudicial to the efficiency of the service if that member were to be required to be absent from duty, and
  - (b) subsection (2A) or (2B) of section 9A of this Act applies.
- (2B) Subsection (2A) above does not affect the application of subsection (2) above to a full-time serving member of Her Majesty’s naval, military or air forces in a case where he is not entitled to be excused under subsection (2A).”

**Commencement Information**

**I744** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

- 6 In section 9(3) (discretionary excusal) after “above” there is inserted “ or any failure by the appropriate officer to excuse him as required by subsection (2A) above ”.

**Commencement Information**

**I745** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

- 7 In section 9A(1) (discretionary deferral) after “may” there is inserted “, subject to subsection (2) below,”.

**Commencement Information**

**I746** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

- 8 After section 9A(1) (discretionary deferral) there is inserted—
- “(1A) Without prejudice to subsection (1) above and subject to subsection (2) below, the appropriate officer—
- (a) shall defer the attendance of a full-time serving member of Her Majesty’s naval, military or air forces in pursuance of a summons if subsection (1B) below applies, and
  - (b) for this purpose, shall vary the dates upon which that member is summoned to attend and the summons shall have effect accordingly.
- (1B) This subsection applies if that member’s commanding officer certifies to the appropriate officer that it would be prejudicial to the efficiency of the service if that member were to be required to be absent from duty.

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(1C) Nothing in subsection (1A) or (1B) above shall affect the application of subsection (1) above to a full-time serving member of Her Majesty’s naval, military or air forces in a case where subsection (1B) does not apply.”

**Commencement Information**

I747 Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

9 For section 9A(2) (discretionary deferral) there is substituted—

“(2) The attendance of a person in pursuance of a summons shall not be deferred under subsection (1) or (1A) above if subsection (2A) or (2B) below applies.”

**Commencement Information**

I748 Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

10 After section 9A(2) (discretionary deferral) there is inserted—

“(2A) This subsection applies where a deferral of the attendance of the person in pursuance of the summons has previously been made or refused under subsection (1) above or has previously been made under subsection (1A) above.

(2B) This subsection applies where—

- (a) the person is a full-time serving member of Her Majesty’s naval, military or air forces, and
- (b) in addition to certifying to the appropriate officer that it would be prejudicial to the efficiency of the service if that member were to be required to be absent from duty, that member’s commanding officer certifies that this position is likely to remain for any period specified for the purpose of this subsection in guidance issued under section 9AA of this Act.”

**Commencement Information**

I749 Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

11 In section 9A(3) (discretionary deferral) after “above” there is inserted “ or any failure by the appropriate officer to defer his attendance as required by subsection (1A) above ”.

**Commencement Information**

I750 Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

12 After section 9A (discretionary deferral) there is inserted—

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### “9AA Requirement to issue guidance

- (1) The Lord Chancellor shall issue guidance as to the manner in which the functions of the appropriate officer under sections 9 and 9A of this Act are to be exercised.
- (2) The Lord Chancellor shall—
  - (a) lay before each House of Parliament the guidance, and any revised guidance, issued under this section, and
  - (b) arrange for the guidance, or revised guidance, to be published in a manner which he considers appropriate.”

#### Commencement Information

**I751** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

- 13 In section 19 (payment for jury service), after subsection (1) there is inserted—
- “(1A) The reference in subsection (1) above to payments by way of allowance for subsistence includes a reference to vouchers and other benefits which may be used to pay for subsistence, whether or not their use is subject to any limitations.”

#### Commencement Information

**I752** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

- 14 In section 20 (offences), for subsection (5)(d) there is substituted—
- “(d) knowing that he is disqualified under Part 2 of Schedule 1 to this Act, serves on a jury;”

#### Commencement Information

**I753** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

- 15 For Schedule 1 (ineligibility and disqualification for and excusal from jury service) there is substituted—

### “SCHEDULE 1

#### MENTALLY DISORDERED PERSONS AND PERSONS DISQUALIFIED FOR JURY SERVICE

### PART 1

#### MENTALLY DISORDERED PERSONS

- 1 A person who suffers or has suffered from mental illness, psychopathic disorder, mental handicap or severe mental handicap and on account of that condition either—
- (a) is resident in a hospital or similar institution; or

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- (b) regularly attends for treatment by a medical practitioner.
- 2 A person for the time being under guardianship under section 7 of the Mental Health Act 1983.
- 3 A person who, under Part 7 of that Act, has been determined by a judge to be incapable, by reason of mental disorder, of managing and administering his property and affairs.
- 4 (1) In this Part of this Schedule—
- (a) “mental handicap” means a state of arrested or incomplete development of mind (not amounting to severe mental handicap) which includes significant impairment of intelligence and social functioning;
  - (b) “severe mental handicap” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning;
  - (c) other expressions are to be construed in accordance with the Mental Health Act 1983.
- (2) For the purposes of this Part a person is to be treated as being under guardianship under section 7 of the Mental Health Act 1983 at any time while he is subject to guardianship pursuant to an order under section 116A(2)(b) of the Army Act 1955, section 116A(2)(b) of the Air Force Act 1955 or section 63A(2)(b) of the Naval Discipline Act 1957.

## PART 2

### PERSONS DISQUALIFIED

- 5 A person who is on bail in criminal proceedings (within the meaning of the Bail Act 1976).
- 6 A person who has at any time been sentenced in the United Kingdom, the Channel Islands or the Isle of Man—
- (a) to imprisonment for life, detention for life or custody for life,
  - (b) to detention during her Majesty’s pleasure or during the pleasure of the Secretary of State,
  - (c) to imprisonment for public protection or detention for public protection,
  - (d) to an extended sentence under section 227 or 228 of the Criminal Justice Act 2003 or section 210A of the Criminal Procedure (Scotland) Act 1995, or
  - (e) to a term of imprisonment of five years or more or a term of detention of five years or more.
- 7 A person who at any time in the last ten years has—
- (a) in the United Kingdom, the Channel Islands or the Isle of Man—
    - (i) served any part of a sentence of imprisonment or a sentence of detention, or
    - (ii) had passed on him a suspended sentence of imprisonment or had made in respect of him a suspended order for detention,

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- (b) in England and Wales, had made in respect of him a community order under section 177 of the Criminal Justice Act 2003, a community rehabilitation order, a community punishment order, a community punishment and rehabilitation order, a drug treatment and testing order or a drug abstinence order, or
  - (c) had made in respect of him any corresponding order under the law of Scotland, Northern Ireland, the Isle of Man or any of the Channel Islands.
- 8 For the purposes of this Part of this Schedule—
- (a) a sentence passed by a court-martial is to be treated as having been passed in the United Kingdom, and
  - (b) a person is sentenced to a term of detention if, but only if—
    - (i) a court passes on him, or makes in respect of him on conviction, any sentence or order which requires him to be detained in custody for any period, and
    - (ii) the sentence or order is available only in respect of offenders below a certain age,
 and any reference to serving a sentence of detention is to be construed accordingly.”

**Commencement Information**

**I754** Sch. 33 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

<sup>F1021</sup>SCHEDULE 34

Section 324

**Textual Amendments**

**F1021** Sch. 34 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

[<sup>F1022</sup>SCHEDULE 34A

CHILD SEX OFFENCES FOR PURPOSES OF SECTION 327A

**Textual Amendments**

**F1022** Sch. 34A inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 140, 153, [Sch. 24](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1](#) para. 43

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*Offences under provisions repealed by Sexual Offences Act 2003*

- 1 An offence under—
- (a) section 5 or 6 of the Sexual Offences Act 1956 (intercourse with girl under 13 or 16), or
  - (b) section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under 16).
- 2 An offence under any of—
- (a) section 1 of that Act (rape),
  - (b) section 10 of that Act (incest by a man), and
  - (c) sections 12 to 16 of that Act (buggery, indecency between men, indecent assault and assault with intent to commit buggery),
- where the victim or (as the case may be) the other party was under 18 at the time of the offence.
- 3 An offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards child under 14).
- 4 An offence under section 9 of the Theft Act 1968 of burglary with intent to commit rape where the intended offence was an offence against a person under 18.
- 5 An offence under section 54 of the Criminal Law Act 1977 (incitement of child under 16 to commit incest).
- 6 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of position of trust).

*Other offences*

- 7 An offence under any of—
- (a) sections 5 to 8 of the Sexual Offences Act 2003 (rape and other offences against children under 13),
  - (b) sections 9 to [F1023 15A] of that Act (child sex offences),
  - (c) sections 16 to 19 of that Act (abuse of position of trust),
  - (d) sections 25 and 26 of that Act (familial child sex offences), and
  - (e) sections 47 to 50 of that Act ( [F1024 sexual exploitation of children] ).

**Textual Amendments**

**F1023** Word in Sch. 34A para. 7(b) substituted (3.4.2017) by *Serious Crime Act 2015* (c. 9), s. 88(1), **Sch. 4 para. 70(2)**; S.I. 2017/511, reg. 2(b)(iv)

**F1024** Words in Sch. 34A para. 7(e) substituted (3.5.2015) by *Serious Crime Act 2015* (c. 9), s. 88(1), **Sch. 4 para. 70(3)**; S.I. 2015/820, reg. 2(r)(xi)

- 8 An offence under any of—
- (a) sections 1 to 4 of that Act (rape, assault and causing sexual activity without consent),
  - (b) sections 30 to 41 of that Act (persons with a mental disorder impeding choice, inducements etc to persons with a mental disorder, and care workers for persons with a mental disorder), and
  - (c) section 61 of that Act (administering a substance with intent),
- where the victim of the offence was under 18 at the time of the offence.



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- 9 An offence under section 62 or 63 of that Act (committing an offence with intent to commit a sexual offence and trespass with intent to commit a sexual offence) where the intended offence was an offence against a person under 18.
- 10 An offence under section 66 [<sup>F1025</sup>, 66A, 66B(2) or (3)]<sup>F1026</sup>, 67 or 67A] of that Act (exposure [<sup>F1027</sup>, sending etc photograph or film of genitals, sharing intimate photograph or film with intent to cause alarm, distress or humiliation or for purpose of obtaining sexual gratification] and voyeurism) where the victim or intended victim of the offence was under 18 at the time of the offence.

#### Textual Amendments

**F1025** Words in Sch. 34A para. 10 inserted (31.1.2024) by Online Safety Act 2023 (c. 50), s. 240(1), Sch. 14 para. 17(3)(a); S.I. 2024/31, reg. 2

**F1026** Words in Sch. 34A para. 10 substituted (12.4.2019) by Voyeurism (Offences) Act 2019 (c. 2), ss. 1(6), 2(2)

**F1027** Words in Sch. 34A para. 10 inserted (31.1.2024) by Online Safety Act 2023 (c. 50), s. 240(1), Sch. 14 para. 17(3)(b); S.I. 2024/31, reg. 2

- 11 An offence under—  
 (a) section 1 of the Protection of Children Act 1978 (indecent photographs of children), or  
 (b) section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of child).
- 12 An offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (indecent or obscene articles) where the prohibited goods included any indecent photograph showing a person under 18.
- 13 An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) in relation to an image showing a person under 18.
- [<sup>F1028</sup> 13A An offence under section 62(1) of the Coroners and Justice Act 2009 (possession of prohibited images of children).]

#### Textual Amendments

**F1028** Sch. 34A para. 13A inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 177, 182, Sch. 21 para. 63 (with s. 180, Sch. 22); S.I. 2010/816, art. 2, Sch. paras. 14(a), 20(a)

- [<sup>F1029</sup> 13B An offence under section 69 of the Serious Crime Act 2015 (possession of paedophile manual).]

#### Textual Amendments

**F1029** Sch. 34A para. 13B inserted (3.5.2015) by Serious Crime Act 2015 (c. 9), s. 88(1), Sch. 4 para. 70(4); S.I. 2015/820, reg. 2(r)(xi)

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*General*

- 14 A reference in this Schedule to an offence (“offence A”) includes—
- (a) a reference to an attempt to commit offence A,
  - (b) a reference to a conspiracy to commit offence A,
  - (c) a reference to incitement to commit offence A,
  - (d) a reference to an offence under Part 2 of the Serious Crime Act 2007 in relation to which offence A is the offence (or one of the offences) which the person intended or believed would be committed, and
  - (e) a reference to aiding and abetting, counselling or procuring the commission of offence A.
- 15 A reference in this Schedule to an offence (“offence A”) includes—
- (a) a reference to an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 as respects which the corresponding civil offence (within the meaning given by the section in question) is offence A, and
  - (b) a reference to an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is offence A;
- and section 48 of that Act (attempts etc. outside England and Wales) applies for the purposes of paragraph (b) as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to that paragraph.]

SCHEDULE 35

Section 328

CRIMINAL RECORD CERTIFICATES: AMENDMENTS OF PART 5 OF POLICE ACT 1997

**Extent Information**

**E2** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a), 178(1)(a)**

1 The Police Act 1997 (c. 50) is amended as follows.

**Extent Information**

**E3** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a), 178(1)(a)**

**Commencement Information**

**I755** Sch. 35 para. 1 wholly in force at 3.12.2007; Sch. 35 para. 1 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 1 in force for E.W. at 29.1.2004 by [S.I. 2004/81](#), **art. 4(2)(o)(i)** and in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), **art. 2(b)**

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### Textual Amendments

**F1030** Sch. 35 para. 2 repealed (29.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), ss. 112, 116, **Sch. 8 Pt. 8**; S.I. 2010/125, **art. 2(q)(u)**

<sup>3</sup> **[<sup>F1031</sup>(1)** Section 113 (criminal record certificates) is amended as follows.

(2) In subsection (1)—

- (a) at the beginning there is inserted “ Subject to subsection (4A) ”,
- (b) in paragraph (a), after “prescribed” there is inserted “ manner and ”, and
- (c) in paragraph (b), after “pays” there is inserted “ in the prescribed manner ”.

(3) After subsection (4) there is inserted—

“(4A) The Secretary of State may treat an application under this section as an application under section 115 if—

- (a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,
- (b) the registered person provides him with the statement required by subsection (2) of that section, and
- (c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under section 115 exceeds the fee paid in relation to the application under this section.”.]

### Extent Information

**E4** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a)**, 178(1)(a)

### Textual Amendments

**F1031** Sch. 35 para. 3 repealed (6.4.2006 for E.W., otherwise prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 7(f)(ix)**

### Commencement Information

**I756** Sch. 35 para. 3 partly in force; Sch. 35 para. 3 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 3(1)(2)(b)(c) in force at 29.1.2004 by [S.I. 2004/81](#), **art. 4(2)(o)(i)**

<sup>4</sup> **[<sup>F1032</sup>(1)** Section 115 (enhanced criminal record certificates) is amended as follows.

(2) In subsection (1)—

- (a) at the beginning there is inserted “ Subject to subsection (9A) ”,
- (b) in paragraph (a), after “prescribed” there is inserted “ manner and ”, and
- (c) in paragraph (b), after “pays” there is inserted “ in the prescribed manner ”.

(3) In subsection (2), for paragraphs (a) to (c) there is substituted “ for such purposes as may be prescribed under this subsection ”.

(4) Subsections (3) to (5) and subsections (6C) to (6E) are omitted.

(5) After subsection (9) there is inserted—

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“(9A) The Secretary of State may treat an application under this section as an application under section 113 if in his opinion the certificate is not required for a purpose prescribed under subsection (2).

(9B) Where by virtue of subsection (9A) the Secretary of State treats an application under this section as an application under section 113, he must refund to the applicant the amount (if any) by which the fee paid in relation to the application under this section exceeds the fee payable in relation to an application under section 113.”]

#### Extent Information

**E5** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a)**, [178\(1\)\(a\)](#)

#### Textual Amendments

**F1032** Sch. 35 para. 4 repealed (6.4.2006 for E.W., otherwise prosp.) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 174, 178**, **Sch. 17 Pt. 2**; [S.I. 2006/378](#), **art. 7(f)(ix)**

#### Commencement Information

**I757** Sch. 35 para. 4 partly in force; Sch. 35 para. 4 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 4(1)(2)(b)(c) in force at 29.1.2004 and Sch. 35 para. 4(3) in force for certain purposes at 29.1.2004 by [S.I. 2004/81](#), **art. 4(2)(o)(i)(ii)**

5 In section 116 (enhanced criminal record certificates: judicial appointments and Crown employment), in subsection (2)(b), for the words from “to which” onwards there is substituted “of such description as may be prescribed”.

#### Extent Information

**E6** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a)**, [178\(1\)\(a\)](#)

#### Commencement Information

**I758** Sch. 35 para. 5 wholly in force at 1.4.2008; Sch. 35 para. 5 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 5 in force for certain purposes at 29.1.2004 by [S.I. 2004/81](#), **art. 4(2)(o)(ii)**; Sch. 35 para. 5 in force for E.W. at 6.4.2006 in so far as it is not already in force by [S.I. 2006/751](#), **art. 2** and in force for N.I. at 1.4.2008 by [S.I. 2008/694](#), **art. 2**

6 (1) Section 120 (registered persons) is amended as follows.

(2) For subsection (2) there is substituted—

“(2) Subject to regulations under section 120ZA and 120AA and to section 120A the Secretary of State shall include in the register any person who—

- (a) applies to him in writing to be registered,
- (b) satisfies the conditions in subsections (4) to (6), and
- (c) has not in the period of two years ending with the date of the application been removed from the register under section 120A or 120AA.”

(3) Subsection (3) is omitted.

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#### Extent Information

**E7** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a), 178(1)(a)**

#### Commencement Information

**I759** Sch. 35 para. 6 wholly in force at 3.12.2007; Sch. 35 para. 6 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 6 in force for E.W. at 6.4.2006 by [S.I. 2006/751](#), **art. 2** and Sch. 35 para. 6(1)(2)(3) in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), **art. 2(b)**

7 After section 120 there is inserted—

#### “120ZA Regulations about registration

- (1) The Secretary of State may by regulations make further provision about registration.
- (2) Regulations under this section may in particular make provision for—
  - (a) the payment of fees,
  - (b) the information to be included in the register,
  - (c) the registration of any person to be subject to conditions,
  - (d) the nomination by—
    - (i) a body corporate or unincorporate, or
    - (ii) a person appointed to an office by virtue of any enactment, of the individuals authorised to act for it or, as the case may be, him in relation to the countersigning of applications under this Part, and
  - (e) the refusal by the Secretary of State, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept the nomination of a person as so authorised.
- (3) The provision which may be made by virtue of subsection (2)(c) includes provision—
  - (a) for the registration or continued registration of any person to be subject to prescribed conditions or, if the regulations so provide, such conditions as the Secretary of State thinks fit, and
  - (b) for the Secretary of State to vary or revoke those conditions.
- (4) The conditions imposed by virtue of subsection (2)(c) may in particular include conditions—
  - (a) requiring a registered person, before he countersigns an application at an individual’s request, to verify the identity of that individual in the prescribed manner,
  - (b) requiring an application under section 113 or 115 to be transmitted by electronic means to the Secretary of State by the registered person who countersigns it, and
  - (c) requiring a registered person to comply with any code of practice for the time being in force under section 122.”

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#### Extent Information

**E8** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a)**, 178(1)(a)

#### Commencement Information

**I760** Sch. 35 para. 7 wholly in force at 3.12.2007; Sch. 35 para. 7 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 7 in force for E.W. at 29.1.2004 by [S.I. 2004/81](#), **art. 4(2)(o)(i)** and in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), **art. 2(b)**

8 At the end of the sidenote to section 120A (refusal and cancellation of registration) there is inserted “ on grounds related to disclosure ”.

#### Extent Information

**E9** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a)**, 178(1)(a)

#### Commencement Information

**I761** Sch. 35 para. 8 wholly in force at 3.12.2007; Sch. 35 para. 8 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 8 in force for E.W. at 6.4.2006 by [S.I. 2006/751](#), **art. 2** and Sch. 35 para. 8 in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), **art. 2(b)**

9 After section 120A there is inserted—

#### “120AA Refusal, cancellation or suspension of registration on other grounds

- (1) Regulations may make provision enabling the Secretary of State in prescribed cases to refuse to register a person who, in the opinion of the Secretary of State, is likely to countersign fewer applications under this Part in any period of twelve months than a prescribed minimum number.
- (2) Subsection (3) applies where a registered person—
  - (a) is, in the opinion of the Secretary of State, no longer likely to wish to countersign applications under this Part,
  - (b) has, in any period of twelve months during which he was registered, countersigned fewer applications under this Part than the minimum number specified in respect of him by regulations under subsection (1), or
  - (c) has failed to comply with any condition of his registration.
- (3) Subject to section 120AB, the Secretary of State may—
  - (a) suspend that person’s registration for such period not exceeding 6 months as the Secretary of State thinks fit, or
  - (b) remove that person from the register.

#### 120AB Procedure for cancellation or suspension under section 120AA

- (1) Before cancelling or suspending a person’s registration by virtue of section 120AA, the Secretary of State must send him written notice of his intention to do so.

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- (2) Every such notice must—
  - (a) give the Secretary of State’s reasons for proposing to cancel or suspend the registration, and
  - (b) inform the person concerned of his right under subsection (3) to make representations.
- (3) A person who receives such a notice may, within 21 days of service, make representations in writing to the Secretary of State as to why the registration should not be cancelled or suspended.
- (4) After considering such representations, the Secretary of State must give the registered person written notice—
  - (a) that at the end of a further period of six weeks beginning with the date of service, the person’s registration will be cancelled or suspended, or
  - (b) that he does not propose to take any further action.
- (5) If no representations are received within the period mentioned in subsection (3) the Secretary of State may cancel or suspend the person’s registration at the end of the period mentioned in that subsection.
- (6) Subsection (1) does not prevent the Secretary of State from imposing on the registered person a lesser sanction than that specified in the notice under that subsection.
- (7) Any notice under this section that is required to be given in writing may be given by being transmitted electronically.
- (8) This section does not apply where—
  - (a) the Secretary of State is satisfied, in the case of a registered person other than a body, that the person has died or is incapable, by reason of physical or mental impairment, of countersigning applications under this Part, or
  - (b) the registered person has requested to be removed from the register.
- (9) The Secretary of State may by regulations amend subsection (4)(a) by substituting for the period there specified, such other period as may be specified in the regulations.”

#### **Extent Information**

**E10** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a)**, **178(1)(a)**

#### **Commencement Information**

**I762** Sch. 35 para. 9 wholly in force at 3.12.2007; Sch. 35 para. 9 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 9 in force for E.W. at 6.4.2006 by [S.I. 2006/751](#), **art. 2** and Sch. 35 para. 9 in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), **art. 2(b)**



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### “122A Delegation of functions of Secretary of State

- (1) The Secretary of State may, to such extent and subject to such conditions as he thinks fit, delegate any relevant function of his under this Part to such person as he may determine.
- (2) A function is relevant for the purposes of subsection (1) if it does not consist of a power—
  - (a) to make regulations, or
  - (b) to publish or revise a code of practice or to lay any such code before Parliament.
- (3) A delegation under subsection (1) may be varied or revoked at any time.”

#### Extent Information

**E11** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 167\(a\)](#), [178\(1\)\(a\)](#)

#### Commencement Information

**I763** Sch. 35 para. 10 wholly in force at 3.12.2007; Sch. 35 para. 10 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 10 in force for E.W. at 29.1.2004 by [S.I. 2004/81](#), [art. 4\(2\)\(o\)\(i\)](#) and in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), [art. 2\(b\)](#)

11 After section 124 (offences: disclosure) there is inserted—

### “124A Further offences: disclosure of information obtained in connection with delegated function

- (1) Any person who is engaged in the discharge of functions conferred by this Part on the Secretary of State commits an offence if he discloses information which has been obtained by him in connection with those functions and which relates to a particular person unless he discloses the information, in the course of his duties,—
  - (a) to another person engaged in the discharge of those functions,
  - (b) to the chief officer of a police force in connection with a request under this Part to provide information to the Secretary of State, or
  - (c) to an applicant or registered person who is entitled under this Part to the information disclosed to him.
- (2) Where information is disclosed to a person and the disclosure—
  - (a) is an offence under subsection (1), or
  - (b) would be an offence under subsection (1) but for subsection (3)(a), (d) or (e),the person to whom the information is disclosed commits an offence if he discloses it to any other person.
- (3) Subsection (1) does not apply to a disclosure of information which is made—
  - (a) with the written consent of the person to whom the information relates,
  - (b) to a government department,



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- (c) to a person appointed to an office by virtue of any enactment,
  - (d) in accordance with an obligation to provide information under or by virtue of any enactment, or
  - (e) for some other purpose specified in regulations made by the Secretary of State.
- (4) A person who is guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to 6 months.”

#### Extent Information

**E12** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a)**, 178(1)(a)

#### Commencement Information

**I764** Sch. 35 para. 11 wholly in force at 3.12.2007; Sch. 35 para. 11 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 11 in force for E.W. at 29.1.2004 by [S.I. 2004/81](#), **art. 4(2)(o)(i)** and in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), **art. 2(b)**

- 12 In section 125 (regulations)—
- (a) subsection (3) is omitted, and
  - (b) in subsection (4), the words “to which subsection (3) does not apply” are omitted.

#### Extent Information

**E13** Sch. 35: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a)**, 178(1)(a)

#### Commencement Information

**I765** Sch. 35 para. 12 wholly in force at 3.12.2007; Sch. 35 para. 12 not in force at Royal Assent, see s. 336(3); Sch. 35 para. 12 in force for E.W. at 6.4.2006 by [S.I. 2006/751](#), **art. 2** and Sch. 35 para. 12(a)(b) in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), **art. 2(b)**

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## SCHEDULE 36

Section 331

### FURTHER MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

#### BAIL

#### *Bail Act 1976 (c. 63)*

1 The Bail Act 1976 is amended as follows.

#### Commencement Information

**I766** Sch. 36 para. 1 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6))

PROSPECTIVE

- 2 (1) Section 5(6A)(a) (supplementary provisions about decisions on bail) is amended as follows.
- (2) After “examination)” there is inserted “, section 52(5) of the Crime and Disorder Act 1998 (adjournment of proceedings under section 51 etc) ”.
- (3) After sub-paragraph (ii) there is inserted—  
“(ia) section 17C (intention as to plea: adjournment), or”.
- (4) After sub-paragraph (iii) there is inserted “or  
(iia) section 24C (intention as to plea by child or young person: adjournment),”.
- 3 In Part 3 of Schedule 1 (interpretation) for paragraph 2 there is substituted—  
“2 References in this Schedule to previous grants of bail include—  
(a) bail granted before the coming into force of this Act;  
(b) as respects the reference in paragraph 2A of Part 1 of this Schedule (as substituted by section 14(1) of the Criminal Justice Act 2003), bail granted before the coming into force of that paragraph;  
(c) as respects the references in paragraph 6 of Part 1 of this Schedule (as substituted by section 15(1) of the Criminal Justice Act 2003), bail granted before the coming into force of that paragraph;  
(d) as respects the references in paragraph 9AA of Part 1 of this Schedule, bail granted before the coming into force of that paragraph;  
(e) as respects the references in paragraph 9AB of Part 1 of this Schedule, bail granted before the coming into force of that paragraph;

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- (f) as respects the reference in paragraph 5 of Part 2 of this Schedule (as substituted by section 13(4) of the Criminal Justice Act 2003), bail granted before the coming into force of that paragraph.”

**Commencement Information**

**I767** Sch. 36 para. 3 wholly in force at 1.1.2007, see s. 336(3) and [S.I. 2006/3217](#), **art. 2** (subject to [art. 3](#))

*Supreme Court Act 1981 (c. 54)*

- 4 (1) Section 81 of the Supreme Court Act 1981 (bail) is amended as follows.
- (2) In subsection (1)(g) after “examination)” there is inserted “, section 52(5) of the Crime and Disorder Act 1998 (adjournment of proceedings under section 51 etc) ”.
- (3) In subsection (1)(g) the word “or” at the end of sub-paragraph (ii) is omitted and after that sub-paragraph there is inserted—  
“(ia) section 17C (intention as to plea: adjournment);”.
- (4) In subsection (1)(g) after sub-paragraph (iii) there is inserted “or  
(iia) section 24C (intention as to plea by child or young person: adjournment);”.

**Commencement Information**

**I768** Sch. 36 para. 4 in force at 18.6.2012 by [S.I. 2012/1320](#), **art. 3(e)**

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

- 5 In section 38(2A) of the Police and Criminal Evidence Act 1984 (bail granted by custody officer after charge)—
- (a) for “2” there is substituted “ 2(1) ”, and
- (b) after “1976” there is inserted “ (disregarding paragraph 2(2) of that Part) ”.

**Commencement Information**

**I769** Sch. 36 para. 5 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), **art. 2(1)(2)** (subject to [art. 2\(3\)-\(6\)](#))

**PART 2**

CHARGING ETC

*Criminal Law Act 1977 (c. 45)*

- 6 In section 39 of the Criminal Law Act 1977 (service of summons and citation throughout United Kingdom) for subsection (1) there is substituted—  
“(1) The following documents, namely—

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- (a) a summons requiring a person charged with an offence to appear before a court in England or Wales,
  - (b) a written charge (within the meaning of section 29 of the Criminal Justice Act 2003) charging a person with an offence,
  - (c) a requisition (within the meaning of that section) requiring a person charged with an offence to appear before a court in England or Wales, and
  - (d) any other document which, by virtue of any enactment, may or must be served on a person with, or at the same time as, a document mentioned in paragraph (a), (b) or (c) above,
- may, in such manner as may be prescribed by rules of court, be served on him in Scotland or Northern Ireland.”

PROSPECTIVE

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

- 7 The Magistrates' Courts Act 1980 is amended as follows.
- 8 (1) Section 1 (issue of summons to accused or warrant for his arrest) is amended as follows.
- (2) In subsection (3) after “section” there is inserted “ upon an information being laid ”.
- (3) In subsection (4) after “summons” there is inserted “ , or a written charge and requisition, ”.
- (4) In subsection (6) after “has” there is inserted “ , or a written charge and requisition have, ”.
- (5) After subsection (6) there is inserted—
- “(6A) Where the offence charged is an indictable offence and a written charge and requisition have previously been issued, a warrant may be issued under this section by a justice of the peace upon a copy of the written charge (rather than an information) being laid before the justice by a public prosecutor.”
- (6) After subsection (7) there is inserted—
- “(7A) For the purposes of subsection (6A) above, a copy of a written charge may be laid before, and a warrant under this section may be issued by, a single justice of the peace.”
- 9 In section 150(1) (interpretation of other terms) after the definition of “prescribed” there is inserted—
- ““public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;”.

*Prosecution of Offences Act 1985 (c. 23)*

- 10 (1) Section 15 of the Prosecution of Offences Act 1985 (interpretation) is amended as follows.

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- (2) In subsection (1) after the definition of “public authority” there is inserted—
- ““public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;”.
- (3) In subsection (2), after paragraph (b) there is inserted—
- “(ba) where a public prosecutor issues a written charge and requisition for the offence, when the written charge and requisition are issued;”.

PROSPECTIVE

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

- 11 (1) Section 51 of the Criminal Justice and Public Order Act 1994 (intimidation, etc, of witnesses, jurors and others) is amended as follows.
- (2) In subsection (9), for the word “and” at the end of the definition of “potential” there is substituted—
- ““public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;”
- (3) In subsection (10)(a), after sub-paragraph (i) there is inserted—
- “(ia) when a public prosecutor issues a written charge and requisition in respect of the offence;”.

PROSPECTIVE

*Drug Trafficking Act 1994 (c. 37)*

- 12 (1) Section 60 of the Drug Trafficking Act 1994 (prosecution by order of Commissioners of Customs and Excise) is amended as follows.
- (2) In subsection (6) for the word “and” at the end of the definition of “officer” there is substituted—
- ““public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003;”.
- (3) In subsection (6A), after paragraph (a) there is inserted—
- “(aa) when a public prosecutor issues a written charge and requisition in respect of the offence;”.

PROSPECTIVE

*Merchant Shipping Act 1995 (c. 21)*

- 13 (1) Section 145 of the Merchant Shipping Act 1995 (interpretation of section 144) is amended as follows.
- (2) In subsection (2)(a), after sub-paragraph (i) there is inserted—

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(ia) when a public prosecutor issues a written charge and requisition in respect of the offence;”.

(3) After subsection (2) there is inserted—

“(2A) In subsection (2) above “public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.”

PROSPECTIVE

*Terrorism Act 2000 (c. 11)*

14 (1) Paragraph 11 of Schedule 4 to the Terrorism Act 2000 (proceedings for an offence: timing) is amended as follows.

(2) In sub-paragraph (1), after paragraph (a) there is inserted—

“(aa) when a public prosecutor issues a written charge and requisition in respect of the offence;”.

(3) After sub-paragraph (2) there is inserted—

“(2A) In sub-paragraph (1) “public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.”

*Proceeds of Crime Act 2002 (c. 29)*

15 (1) Section 85 of the Proceeds of Crime Act 2002 (proceedings) is amended as follows.

(2) In subsection (1), after paragraph (a) there is inserted—

“(aa) when a public prosecutor issues a written charge and requisition in respect of the offence;”.

(3) After subsection (8) there is inserted—

“(9) In this section “public prosecutor”, “requisition” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.”

PROSPECTIVE

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

16 After section 4 of the Crime (International Co-operation) Act 2003 there is inserted—

**“4A General requirements for service of written charge or requisition**

(1) This section applies to the following documents issued for the purposes of criminal proceedings in England and Wales by a prosecutor—

(a) a written charge (within the meaning of section 29 of the Criminal Justice Act 2003),

(b) a requisition (within the meaning of that section).

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) The written charge or requisition may be issued in spite of the fact that the person on whom it is to be served is outside the United Kingdom.
- (3) Where the written charge or requisition is to be served outside the United Kingdom and the prosecutor believes that the person on whom it is to be served does not understand English, the written charge or requisition must be accompanied by a translation of it in an appropriate language.
- (4) A written charge or requisition served outside the United Kingdom must be accompanied by a notice giving any information required to be given by rules of court.
- (5) If a requisition is served outside the United Kingdom, no obligation under the law of England and Wales to comply with the requisition is imposed by virtue of the service.
- (6) Accordingly, failure to comply with the requisition is not a ground for issuing a warrant to secure the attendance of the person in question.
- (7) But the requisition may subsequently be served on the person in question in the United Kingdom (with the usual consequences for non-compliance).

#### **4B Service of written charge or requisition otherwise than by post**

- (1) A written charge or requisition to which section 4A applies may, instead of being served by post, be served on a person outside the United Kingdom in accordance with arrangements made by the Secretary of State.
- (2) But where the person is in a participating country, the written charge or requisition may be served in accordance with those arrangements only if one of the following conditions is met.
- (3) The conditions are—
  - (a) that the correct address of the person is unknown,
  - (b) that it has not been possible to serve the written charge or requisition by post,
  - (c) that there are good reasons for thinking that service by post will not be effective or is inappropriate.”

### **PART 3**

#### **DISCLOSURE**

##### *Prosecution of Offences Act 1985 (c. 23)*

- 17 In section 22B of the Prosecution of Offences Act 1985 (re-institution of proceedings stayed under section 22(4) or 22A(5)), in subsection (5)(a) for “section 3, 4, 7 or 9” there is substituted “ section 3, 4 or 7A ”.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I770** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

#### *Criminal Justice Act 1987 (c. 38)*

18 In section 9 of the Criminal Justice Act 1987 (preparatory hearings in serious fraud cases etc.), paragraphs (i) and (iii) of subsection (5) are omitted.

#### Commencement Information

**I771** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

#### *Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (S.I. 1988/1846 (N.I. 16))*

19 In Article 8 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (preparatory hearings in serious fraud cases etc.), sub-paragraphs (i) and (iii) of paragraph (5) are omitted.

#### Commencement Information

**I772** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

#### *Criminal Procedure and Investigations Act 1996 (c. 25)*

20 The Criminal Procedure and Investigations Act 1996 is amended as follows.

#### Commencement Information

**I773** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

21 In section 3 (primary disclosure by prosecutor), for the heading there is substituted “**Initial duty of prosecutor to disclose**”.

#### Commencement Information

**I774** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))



*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 22 In section 4 (primary disclosure: further provisions), in the heading for “**Primary disclosure**” there is substituted “ **Initial duty to disclose** ”.

**Commencement Information**

**I775** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 23 In section 5 (compulsory disclosure by accused), subsections (6) to (9) are omitted.

**Commencement Information**

**I776** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 24 In section 6 (voluntary disclosure by accused), subsection (3) is omitted.

**Commencement Information**

**I777** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 25 Section 7 (secondary disclosure by prosecutor) shall cease to have effect.

**Commencement Information**

**I778** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 26 Section 9 (continuing duty of prosecutor to disclose) shall cease to have effect.

**Commencement Information**

**I779** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 27 In section 10 (prosecutor’s failure to observe time limits), in subsection (1), for paragraph (b) there is substituted—  
“(b) purports to act under section 7A(5) after the end of the period which, by virtue of section 12, is the relevant period for section 7A.”

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*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I780** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 28 In section 12 (time limits)—
- (a) in subsection (1), for “and 7” there is substituted “, 6B, 6C and 7A(5)”;
  - (b) in subsection (5), for “7” there is substituted “ 7A(5) ”.

#### Commencement Information

**I781** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 29 In section 13 (time limits: transitional), for subsection (2) there is substituted—
- “(2) As regards a case in relation to which no regulations under section 12 have come into force for the purposes of section 7A, section 7A(5) shall have effect as if—
- (a) in paragraph (a) for the words from “during the period” to the end, and
  - (b) in paragraph (b) for “during that period”,
- there were substituted “ as soon as is reasonably practicable after the accused gives the statement in question ”.”

#### Commencement Information

**I782** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 30 In section 14 (public interest: review for summary trials), in subsection (2)(a), for “7(5), 8(5) or 9(8)” there is substituted “ 7A(8) or 8(5) ”.

#### Commencement Information

**I783** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 31 In section 15 (public interest: review in other cases), in subsection (2)(a), for “7(5), 8(5) or 9(8)” there is substituted “ 7A(8) or 8(5) ”.

#### Commencement Information

**I784** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*

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- 32 In section 16 (applications: opportunity to be heard), in paragraph (a) and in the words after paragraph (c), for “7(5), 8(5), 9(8)” there is substituted “ 7A(8), 8(5) ”.

**Commencement Information**

**I785** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 33 In section 17 (confidentiality of disclosed information), in subsection (1)(a), for “7, 9” there is substituted “ 7A ”.

**Commencement Information**

**I786** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 34 In section 19 (rules of court) in subsection (2)(b) and (d), for “7(5), 8(2) or (5), 9(8)” there is substituted “ 5(5B), 6B(6), 6E(5), 7A(8), 8(2) or (5) ”.

**Commencement Information**

**I787** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 35 In section 20 (other statutory rules as to disclosure)—
- (a) subsection (2) is omitted, and
  - (b) in subsection (5)(a), for “sections 3 to 9” there is substituted “ sections 3 to 8 ”.

**Commencement Information**

**I788** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 36 In section 31 (preparatory hearings in complex cases etc.), paragraphs (a) and (c) of subsection (6) are omitted.

**Commencement Information**

**I789** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(a\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

- 37 (1) Section 77 (orders and regulations) is amended as follows.
- (2) In subsection (5)—
- (a) after “No” there is inserted “ regulations or ”, and

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) after “section” there is inserted “ 6A or ”.

(3) In subsection (6)(b) after “regulations” there is inserted “ (other than regulations under section 6A) ”.

#### Commencement Information

**I790** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 43(a) (subject to **art. 2(2)**, Sch. 2); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by S.I. 2005/1817, **art. 2(1)(2)** (subject to **art. 2(3)**)

38 In Schedule 4 (modifications for Northern Ireland), in paragraph 7, for “3(6), 7(5), 8(5) or 9(8)” there is substituted “ 3(6), 7A(8) or 8(5) ”.

#### Commencement Information

**I791** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 43(a) (subject to **art. 2(2)**, Sch. 2); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by S.I. 2005/1817, **art. 2(1)(2)** (subject to **art. 2(3)**)

#### *Sexual Offences (Protected Material) Act 1997 (c. 39)*

39 In section 9(4) of the Sexual Offences (Protected Material) Act 1997 (which, when in force, will add a subsection (6) to section 1 of the Criminal Procedure and Investigations Act 1996), for “section 3, 7 or 9” there is substituted “ section 3 or 7A ”.

#### Commencement Information

**I792** Sch. 36 Pt. 3 partly in force; Sch 26 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 3 in force for E.W at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 43(a) (subject to **art. 2(2)**, Sch. 2); Sch. 36 Pt. 3 in force for N.I. at 15.7.2005 by S.I. 2005/1817, **art. 2(1)(2)** (subject to **art. 2(3)**)

## PART 4

### TRIALS ON INDICTMENT WITHOUT A JURY

#### *Indictments Act 1915 (c. 90)*

40 (1) Section 5 of the Indictments Act 1915 (orders for amendment of indictment, separate trial and postponement of trial) is amended as follows.

(2) In subsection (5)(a) for “are to” there is substituted “ (if there is one) ”.

(3) In subsection (5)(b) after “discharged” there is inserted “ under paragraph (a) ”.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I793** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

#### *Criminal Law Act 1967 (c. 58)*

- 41 In section 6(4) of the Criminal Law Act 1967 (trial of offences) after “jury” there is inserted “ or otherwise act ”.

#### Commencement Information

**I794** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

#### *Criminal Justice Act 1967 (c. 80)*

- 42 In section 17 of the Criminal Justice Act 1967 (entry of verdict of not guilty by order of a judge)—
- (a) for “the defendant being given in charge to a jury” there is substituted “ any further steps being taken in the proceedings ”, and
  - (b) after “verdict of a jury” there is inserted “ or a court ”.

#### Commencement Information

**I795** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

#### *Criminal Law Act (Northern Ireland) 1967 (c. 18)*

- 43 In section 6(3) of the Criminal Law Act (Northern Ireland) 1967 (trial of offences) after “jury” there is inserted “ or otherwise act ”.

#### Commencement Information

**I796** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

#### *Criminal Appeal Act 1968 (c. 19)*

- 44 In section 7(2)(c) of the Criminal Appeal Act 1968 (power to order retrial)—
- (a) for “the jury were discharged from giving a verdict” there is substituted “ no verdict was given ”, and
  - (b) for “convicting him” there is substituted “ his being convicted ”.

**Status:** Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Commencement Information

**I797** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

#### *Judicature (Northern Ireland) Act 1978 (c. 23)*

- 45 (1) Section 48 of the Judicature (Northern Ireland) Act 1978 (committal for trial on indictment) is amended as follows.
- (2) In subsection (6A) for “the jury are sworn” there is substituted “ the time when the jury are sworn ”.
- (3) After subsection (6A) there is inserted—
- “(6B) The reference in subsection (6A) to the time when the jury are sworn includes the time when the jury would be sworn but for—
- (a) the making of an order under Part 7 of the Criminal Justice Act 2003, or
  - (b) the application of [<sup>F1033</sup>section 5 of the Justice and Security (Northern Ireland) Act 2007] .”

#### Textual Amendments

**F1033** Words in Sch. 36 para. 45(3) substituted (1.8.2007 and shall expire (1.8.2009) in accordance with s. 9(1) of the amending Act) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 8, 53, **Sch. 1 para. 4**; S.I. 2007/2045, **art. 2(2)(3)(h)(q)** (with **art. 3**); with saving (N.I.) (at the end of 31.7.2007) by The Terrorism (Northern Ireland) Act 2006 (Transitional Provisions and Savings) Order 2007 (S.I. 2007/2259), **art. 2**

#### Commencement Information

**I798** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

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

- 46 In section 6(3)(c) of the Criminal Appeal (Northern Ireland) Act 1980 (power to order retrial) for “the jury were discharged from giving a verdict” there is substituted “ no verdict was given ”.

#### Commencement Information

**I799** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Supreme Court Act 1981 (c. 54)*

- 47 (1) Section 76 of the Supreme Court Act 1981 (committal for trial: alteration of place of trial) is amended as follows.
- (2) In subsection (2A) for “the jury are sworn” there is substituted “ the time when the jury are sworn ”
- (3) After subsection (2A) there is inserted—
- “(2B) The reference in subsection (2A) to the time when the jury are sworn includes the time when the jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.”

**Commencement Information**

**I800** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

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

- 48 (1) Section 77 of the Police and Criminal Evidence Act 1984 (confessions of mentally handicapped persons) is amended as follows.
- (2) In subsection (1) after “indictment” there is inserted “ with a jury ”.
- (3) In subsection (2) after “indictment” there is inserted “ with a jury ”.
- (4) After subsection (2) there is inserted—
- “(2A) In any case where at the trial on indictment without a jury of a person for an offence it appears to the court that a warning under subsection (1) above would be required if the trial were with a jury, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.”

**Commencement Information**

**I801** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

*Prosecution of Offences Act 1985 (c. 23)*

- 49 The Prosecution of Offences Act 1985 is amended as follows.

**Commencement Information**

**I802** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)



*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
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- 50 In section 7A(6)(a) (powers of non-legal staff) for “by a jury” there is substituted “on indictment”.

**Commencement Information**

**I803** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

- 51 (1) Section 22 (power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings) is amended as follows.

(2) In subsection (11A)—

- (a) for “when a jury is sworn” there is substituted “at the time when a jury is sworn”,  
(b) for “a jury is sworn” there is substituted “the time when a jury is sworn”.

(3) After that subsection there is inserted—

“(11AA) The references in subsection (11A) above to the time when a jury is sworn include the time when that jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.”

**Commencement Information**

**I804** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

*Criminal Justice Act 1987 (c. 38)*

- 52 The Criminal Justice Act 1987 is amended as follows.

**Commencement Information**

**I805** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

- 53 (1) Section 7 (power to order preparatory hearing) is amended as follows.

(2) In subsection (1) for “the jury are sworn” there is substituted “the time when the jury are sworn”.

(3) After subsection (2) there is inserted—

“(2A) The reference in subsection (1) above to the time when the jury are sworn includes the time when the jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.”



*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**1806** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, [art. 2](#)

- 54 (1) Section 9 (the preparatory hearing) is amended as follows.
- (2) In subsection (4)(b) for “the jury” there is substituted “ a jury ”.
- (3) In subsection (13) for “no jury shall be sworn” there is substituted “ the preparatory hearing shall not be concluded ”.

#### Commencement Information

**1807** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, [art. 2](#)

- 55 (1) Section 10 (later stages of trial) is amended as follows.
- (2) In subsection (2) after “jury” there is inserted “ or, in the case of a trial without a jury, the judge ”.
- (3) In subsection (3) for “deciding whether to give leave” there is substituted “ doing anything under subsection (2) above or in deciding whether to do anything under it ”.
- (4) In subsection (4) for “Except as provided by this section” there is substituted “ Except as provided by this section, in the case of a trial with a jury ”.

#### Commencement Information

**1808** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, [art. 2](#)

*Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (S.I. 1988/1846 (N.I. 16))*

- 56 The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 is amended as follows.

#### Commencement Information

**1809** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, [art. 2](#)

- 57 (1) Article 6 (power to order preparatory hearing) is amended as follows.
- (2) In paragraph (1) for “the jury are sworn” there is substituted “ the time when the jury are sworn ”.
- (3) After paragraph (2) there is inserted—

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*Changes to legislation: Criminal Justice Act 2003 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“(2A) The reference in paragraph (1) to the time when the jury are sworn includes the time when the jury would be sworn but for—

- (a) the making of an order under Part 7 of the Criminal Justice Act 2003, or
- (b) the application of section 75 of the Terrorism Act 2000.”

#### Commencement Information

**1810** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

- 58 (1) Article 8 (the preparatory hearing) is amended as follows.
- (2) In paragraph (4)(b) for “the jury” there is substituted “ a jury ”.
- (3) In paragraph (12) for “no jury shall be sworn” there is substituted “ the preparatory hearing shall not be concluded ”.

#### Commencement Information

**1811** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

- 59 (1) Article 9 (later stages of trial) (as originally enacted) is amended as follows.
- (2) In paragraph (1) after “jury” there is inserted “ or, in the case of a trial without a jury, the judge ”.
- (3) In paragraph (2) for “deciding whether to give leave” there is substituted “ doing anything under paragraph (1) or in deciding whether to do anything under it ”.
- (4) In paragraph (3) for “Except as provided by this Article” there is substituted “ Except as provided by this Article, in the case of a trial with a jury ”.

#### Commencement Information

**1812** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

- 60 (1) Article 9 (later stages of trial) (as substituted by paragraph 6 of Schedule 3 to the Criminal Procedure and Investigations Act 1996 (c. 25)) is amended as follows.
- (2) In paragraph (2) after “jury” there is inserted “ or, in the case of a trial without a jury, the judge ”.
- (3) In paragraph (3) for “deciding whether to give leave” there is substituted “ doing anything under paragraph (2) or in deciding whether to do anything under it ”.
- (4) In paragraph (4) for “Except as provided by this Article” there is substituted “ Except as provided by this Article, in the case of a trial with a jury ”.

*Status: Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.*  
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#### Commencement Information

**1813** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

#### *Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

61 (1) Article 75 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (confessions of mentally handicapped persons) is amended as follows.

(2) In paragraph (1) after “indictment” there is inserted “ with a jury ”.

(3) In paragraph (2) after “indictment” there is inserted “ with a jury ”.

(4) After paragraph (2) there is inserted—

“(2A) In any case where at the trial on indictment without a jury of a person for an offence it appears to the court that a warning under paragraph (1) would be required if the trial were with a jury, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.”

#### Commencement Information

**1814** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

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

62 The Criminal Justice and Public Order Act 1994 is amended as follows.

#### Commencement Information

**1815** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

63 In section 35(2) (effect of accused’s silence at trial) after “indictment” there is inserted “ with a jury ”.

#### Commencement Information

**1816** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

64 In section 51(10)(b) (intimidation of witnesses, jurors and others) after “finding” there is inserted “ otherwise than in circumstances where the proceedings are continued without a jury ”.

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**Commencement Information**

**1817** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

*Criminal Procedure and Investigations Act 1996 (c. 25)*

65 The Criminal Procedure and Investigations Act 1996 is amended as follows.

**Commencement Information**

**1818** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

- 66 (1) Section 29 (power to order preparatory hearing) is amended as follows.
- (2) In subsection (1)(a) for “the jury are sworn” there is substituted “ the time when the jury are sworn ”.
- (3) After subsection (4) there is inserted—
- “(5) The reference in subsection (1)(a) to the time when the jury are sworn includes the time when the jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.”

**Commencement Information**

**1819** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

- 67 In section 31(4)(b) (the preparatory hearing) for “the jury” there is substituted “ a jury ”.

**Commencement Information**

**1820** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

- 68 (1) Section 34 (later stages of trial) is amended as follows.
- (2) In subsection (2) after “jury” there is inserted “ or, in the case of a trial without a jury, the judge ”.
- (3) In subsection (3) for “deciding whether to give leave” there is substituted “ doing anything under subsection (2) or in deciding whether to do anything under it ”.
- (4) In subsection (4) for “Except as provided by this section” there is substituted “ Except as provided by this section, in the case of a trial with a jury ”.

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#### Commencement Information

**I821** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, [art. 2](#)

- 69 In section 35(2) (appeals to Court of Appeal) for “no jury shall be sworn” there is substituted “ the preparatory hearing shall not be concluded ”.

#### Commencement Information

**I822** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, [art. 2](#)

- 70 In section 36(2) (appeals to House of Lords) for “no jury shall be sworn” there is substituted “ the preparatory hearing shall not be concluded ”.

#### Commencement Information

**I823** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, [art. 2](#)

- 71 (1) Section 39 (meaning of pre-trial hearing) is amended as follows.
- (2) In subsection (3)—
- (a) for “when a jury is sworn” there is substituted “ at the time when a jury is sworn ”,
- (b) for “a jury is sworn” there is substituted “ the time when a jury is sworn ”.
- (3) After that subsection there is inserted—
- “(4) The references in subsection (3) to the time when a jury is sworn include the time when that jury would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.”

#### Commencement Information

**I824** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, [art. 2](#)

- 72 (1) Schedule 4 (modifications for Northern Ireland) is amended as follows.
- (2) In paragraph 15 after the substituted version of section 39(2) there is inserted—
- “(2A) But, for the purposes of this Part, a hearing of the kind mentioned in section 45(2)(b) of the Criminal Justice Act 2003 is not a pre-trial hearing.”
- (3) In paragraph 15 in paragraph (b) of the substituted version of section 39(3)—
- (a) for “when a jury is sworn” there is substituted “ at the time when a jury is sworn ”, and

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(b) for “a jury is sworn” there is substituted “ the time when a jury is sworn ”.

(4) After paragraph 15 there is inserted—

“15A In section 39(4) for “(3)” substitute “ (3)(b) ”.”

**Commencement Information**

**1825** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

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

73 In paragraph 2(2) of Schedule 3 to the Crime and Disorder Act 1998 (applications for dismissal) for “a jury properly to convict him” there is substituted “ him to be properly convicted ”.

**Commencement Information**

**1826** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

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

74 The Youth Justice and Criminal Evidence Act 1999 is amended as follows.

**Commencement Information**

**1827** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

75 In section 32 (warning to jury) after “indictment” there is inserted “ with a jury ”.

**Commencement Information**

**1828** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

76 In section 39(1) (warning to jury) after “indictment” there is inserted “ with a jury ”.

**Commencement Information**

**1829** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by [S.I. 2006/1835](#), [art. 2](#) (subject to [art. 3](#)); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by [S.I. 2006/3422](#), [art. 2](#)

*Status:* Point in time view as at 02/04/2024. This version of this Act contains provisions that are prospective.  
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*Anti-terrorism, Crime and Security Act 2001 (c. 24)*

77 In paragraph 19(6)(c) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (general interpretation) after “finding” there is inserted “ otherwise than in circumstances where the proceedings are continued without a jury ”.

**Commencement Information**  
**1830** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

*Proceeds of Crime Act 2002 (c. 29)*

78 In section 316(9)(c) of the Proceeds of Crime Act 2002 (general interpretation) after “finding” there is inserted “ otherwise than in circumstances where the proceedings are continued without a jury ”.

**Commencement Information**  
**1831** Sch. 36 Pt. 4 wholly in force at 8.1.2007; Sch. 36 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 36 Pt. 4 in force for E.W. at 24.7.2006 by S.I. 2006/1835, **art. 2** (subject to **art. 3**); Sch. 36 Pt. 4 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, **art. 2**

**PART 5**

EVIDENCE

*Criminal Procedure Act 1865 (c. 18)*

79 In section 6 of the Criminal Procedure Act 1865 (witness’s conviction for offence may be proved if not admitted)—  
(a) for “A witness may be” there is substituted “ If, upon a witness being lawfully ”;  
(b) the words “and upon being so questioned, if” are omitted.

*Criminal Evidence Act 1898 (c. 36)*

80 In section 1 of the Criminal Evidence Act 1898 (defendant as witness)—  
(a) at the beginning of subsection (2) there is inserted “ Subject to section 101 of the Criminal Justice Act 2003 (admissibility of evidence of defendant’s bad character), ”;  
(b) subsection (3) is omitted.

*Army Act 1955 (c. 18)*

81 F1034 .....



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**Textual Amendments**

**F1034**Sch. 36 paras. 81-84 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), 378(2), 383, {Sch. 17}; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), **art. 4**

**Commencement Information**

**I832** Sch. 36 para. 81 wholly in force at 4.4.2005; Sch. 36 para. 81 not in force at Royal Assent, see s. 336(3); Sch. 36 para. 81 in force for certain purposes at 1.1.2005 by [S.I. 2004/3033](#), **art. 4**; Sch. 36 para. 81 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 43\(b\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Air Force Act 1955 (c. 19)*

82 **F1035** .....

**Textual Amendments**

**F1035**Sch. 36 paras. 81-84 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), 378(2), 383, {Sch. 17}; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), **art. 4**

**Commencement Information**

**I833** Sch. 36 para. 82 wholly in force at 4.4.2005; Sch. 36 para. 82 not in force at Royal Assent, see s. 336(3); Sch. 39 para. 82 in force for certain purposes at 1.1.2005 by [S.I. 2004/3033](#), **art. 4**; Sch. 36 para. 82 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 43\(b\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Naval Discipline Act 1957 (c. 53)*

83 **F1036** .....

**Textual Amendments**

**F1036**Sch. 36 paras. 81-84 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), 378(2), 383, {Sch. 17}; [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), **art. 4**

**Commencement Information**

**I834** Sch. 36 para. 83 wholly in force at 4.4.2005; Sch. 36 para. 83 not in force at Royal Assent, see s. 336(3); Sch. 36 para. 83 in force for certain purposes at 1.1.2005 by [S.I. 2004/3033](#), **art. 4**; Sch. 36 para. 83 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 43\(b\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Armed Forces Act 1976 (c. 52)*

84 **F1037** .....



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### Textual Amendments

**F1037** Sch. 36 paras. 81-84 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), 378(2), 383, {Sch. 17}; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

### Commencement Information

**I835** Sch. 36 para. 84 wholly in force at 4.4.2005; Sch. 36 para. 84 not in force at Royal Assent, see s. 336(3); Sch. 36 para. 84 in force for certain purposes at 1.1.2005 by [S.I. 2005/3033](#), [art. 4](#); Sch. 36 para. 84 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(b\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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

- 85 (1) Section 74 of the Police and Criminal Evidence Act 1984 (conviction as evidence of commission of offence) is amended as follows.
- (2) In subsection (1) (commission of offence by non-defendant) for the words from “, where to do so” to “committed that offence” there is substituted “ that that person committed that offence, where evidence of his having done so is admissible ”.
- (3) In subsection (3) (commission of offence by defendant) the words from “in so far” to “he is charged,” are omitted.

## PART 6

### MISCELLANEOUS

### *Criminal Appeal Act 1968 (c. 19)*

- 86 The Criminal Appeal Act 1968 is amended as follows.

### Commencement Information

**I836** Sch. 36 para. 86 wholly in force at 1.9.2004, see s. 336(3) and [S.I. 2004/1629](#), [art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)\(4\)](#))

- 87 In section 31(1) (powers of Court of Appeal exercisable by single judge) after paragraph (a) there is inserted—
- “(aa) the power to give leave under section 14(4B) of the Criminal Appeal Act 1995;”.

### Commencement Information

**I837** Sch. 36 para. 87 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 43\(c\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 88 In section 31A (powers of Court of Appeal exercisable by registrar) after subsection (4) there is inserted—

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“(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

**Commencement Information**

**I838** Sch. 36 para. 88 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 43(c) (subject to art. 2(2), Sch. 2)

- 89 In section 45 (construction of references to Court of Appeal)—
- (a) in subsection (1), for “section 44A” there is substituted “ sections 44A and 51 ”,
  - (b) in subsection (2) after “sections” there is inserted “ 23A, ”.

**Commencement Information**

**I839** Sch. 36 para. 89 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, art. 3(1)(2) (subject to art. 3(3)(4))

- 90 (1) Section 51 (interpretation) is amended as follows.
- (2) In subsection (1) the definition of “the defendant” is omitted.
- (3) After that subsection there is inserted—
- “(1A) In Part 2 of this Act “the defendant”—
- (a) in relation to an appeal under section 33(1) of this Act against a decision of the Court of Appeal on an appeal under Part 1 of this Act, means the person who was the appellant before the Court of Appeal,
  - (b) in relation to an appeal under section 33(1) of this Act against any other decision, means a defendant in the proceedings before the Crown Court who was a party to the proceedings before the Court of Appeal, and
  - (c) in relation to an appeal under section 33(1B) of this Act, shall be construed in accordance with section 33(4) of this Act;
- and, subject to section 33(1A) of this Act, “prosecutor” shall be construed accordingly.”

**Commencement Information**

**I840** Sch. 36 para. 90 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 43(c) (subject to art. 2(2), Sch. 2)

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

- 91 The Criminal Appeal (Northern Ireland) Act 1980 is amended as follows.

**Commencement Information**

**I841** Sch. 36 para. 91 wholly in force at 8.1.2007; Sch. 36 para. 91 not in force at Royal Assent, see s. 336(3); Sch. 36 para. 91 in force for certain purposes at 4.4.2005 and 18.5.2005 by S.I. 2005/950, arts. 2(1), 3,

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Sch. 1 para. 43(c); Sch. 36 para. 91 in force in so far as not already in force at 8.1.2007 by S.I. 2006/3422, art. 2

- 92 (1) Section 19 (legal aid) is amended as follows.
- (2) In subsection (1) after “an appeal” there is inserted “ under this Part of this Act ”.
- (3) In subsection (1A) for “for the purpose” there is substituted “ in respect ”.
- (4) In subsection (1A)(a)—
- (a) the words “application for leave to” are omitted, and
  - (b) after “hearings)” there is inserted “ or section 47 of the Criminal Justice Act 2003 ”.
- (5) For subsection (1A)(b) there is substituted—
- “(b) any other appeal to the Court of Appeal under any Northern Ireland legislation (whenever passed or made) from proceedings before the Crown Court; or
  - (c) an application for leave to appeal in relation to an appeal mentioned in paragraph (a) or (b) above.”
- (6) After subsection (1A) there is inserted—
- “(1B) The Crown Court or the Court of Appeal may order that an acquitted person shall be given legal aid in respect of an application made in relation to him under section 76 of the Criminal Justice Act 2003.”
- (7) In subsection (3) for “an appellant” there is substituted “ a person ”.

#### Commencement Information

**I842** Sch. 36 para. 91 wholly in force at 8.1.2007; Sch. 36 para. 91 not in force at Royal Assent, see s. 336(3); Sch. 36 para. 90(6) in force at 18.4.2005 by S.I. 2005/950, art. 3; Sch. 36 para. 91(1)-(5)(7) in force at 8.1.2007 by S.I. 2006/3422, art. 2

- 93 (1) Section 28 (costs) is amended as follows.
- (2) In subsection (2)(a) for “this Part” there is substituted “ section 19(1) ”.
- (3) After subsection (2) there is inserted—
- “(2AA) The expenses of any solicitor or counsel assigned to a person pursuant to a grant of legal aid under section 19(1A) or (1B) of this Act shall, up to an amount allowed by the Master (Taxing Office), be defrayed by the Lord Chancellor.”
- (4) In subsection (2A) after “(2)(a)” there is inserted “ or (2AA) ”.
- (5) In subsection (2G)—
- (a) after “(2)(a)” there is inserted “ or (2AA) ”, and
  - (b) for “subsection (2)” there is substituted “ subsections (2) and (2AA) ”.
- 94 For section 31(3) (definition of defendant and prosecutor) there is substituted—
- “(3) In this Part of this Act “the defendant”—

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- (a) in relation to an appeal under subsection (1) above against a decision of the Court on an appeal under Part 1 of this Act, means the person who was the appellant before the Court;
- (b) in relation to an appeal under subsection (1) above against any other decision, means a defendant in the proceedings before the Crown Court who was a party to the proceedings before the Court;
- (c) in relation to an appeal under subsection (1B) above, shall be construed in accordance with subsection (4) below;

and, subject to subsection (1A) above, “prosecutor” shall be construed accordingly.”

95 In section 45 (powers of Court of Appeal exercisable by single judge) after subsection (3B) there is inserted—

“(3C) Subject to section 44(4) above, the power of the Court of Appeal to give leave under section 14(4B) of the Criminal Appeal Act 1995 may be exercised by a single judge of the Court.”

**Commencement Information**

**1843** Sch. 36 para. 95 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 43(c) (subject to art. 2(2), Sch. 2)

*Criminal Justice Act 1988 (c. 33)*

96 In section 36 of the Criminal Justice Act 1988 (reviews of sentencing)—

- (a) in subsection (3), for “10” there is substituted “ 11 ”,
- (b) in subsection (9)(b), for “10 and 35(1)” there is substituted “ 11 and 35(1) ”.

**Commencement Information**

**1844** Sch. 36 para. 96 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 43(c) (subject to art. 2(2), Sch. 2)

*Criminal Appeal Act 1995 (c. 35)*

97 In section 15(2)(a) of the Criminal Appeal Act 1995 (investigations by Criminal Cases Review Commission for Court of Appeal) for “case”, in both places where it occurs, there is substituted “ appeal or application for leave to appeal ”.

**Commencement Information**

**1845** Sch. 36 para. 97 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, art. 3(1)(2) (subject to art. 3(3)(4))

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PROSPECTIVE

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

F1038 98

**Textual Amendments**

**F1038**Sch. 36 para. 98 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

## SCHEDULE 37

Section 332

## REPEALS

## PART 1

## REPEALS RELATING TO AMENDMENTS OF POLICE AND CRIMINAL EVIDENCE ACT 1984

**Commencement Information**

**1846** Sch. 37 Pt. 1 partly in force; Sch. 37 Pt. 1 not in force at Royal Assent, see s. 336(3); Sch. 37 Pt. 1 in force for certain purposes at 20.1.2004 by [S.I. 2004/81](#), **art. 2**; Sch. 37 Pt. 1 in force for certain purposes at 5.4.2004 by [S.I. 2004/829](#), **art. 2(1)(2)** (subject to [art. 2\(3\)-\(6\)](#))

**Short title and chapter**

Police and Criminal Evidence Act 1984  
(c. 60)

**Extent of repeal**

In section 1(8), the word “and” at the end of paragraph (c).  
In section 54(1), the words “and record or cause to be recorded”.  
In section 63(3)(a), the words “is in police detention or”.  
In section 67—  
(a) the word “such” in subsections (9), (10) (a), (b) and (c) and in both places where it occurs in subsection (11), and  
(b) the words “of practice to which this section applies” in subsection (9A).  
In section 113—  
(a) in subsection (4), the words “issued under that subsection”,  
(b) in subsection (8), the words “of practice issued under this section”, and  
(c) in subsection (10), the word “such” in both places where it occurs.

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Criminal Justice and Public Order Act 1994 (c. 33)	Section 29(3).
Armed Forces Act 2001 (c. 19)	In section 2(9), the word “and” at the end of paragraph (c).
Police Reform Act 2002 (c. 30)	In Schedule 7, paragraph 9(1) and (6).

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## PART 2

### BAIL

#### Commencement Information

**1847** Sch. 37 Pt. 2 in force at 18.6.2012 for specified purposes for E.W.S. by S.I. 2012/1320, **art. 3(f)(i)**

**1848** Sch. 37 Pt. 2 partly in force; Sch. 37 Pt. 2 not in force at Royal Assent, see s. 336(3); Sch. 37 Pt. 2 in force for certain purposes at 5.4.2004 by S.I. 2004/829, **art. 2(1)(2)** (subject to **art. 2(3)-(6)**) and in force for N.I. at 3.12.2007 by S.I. 2007/3340, **art. 2(c)**

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Short title and chapter	Extent of repeal
Criminal Justice Act 1967 (c. 80)	In section 22, in subsection (1) the words “subject to section 25 of the Criminal Justice and Public Order Act 1994” and in subsection (3) the words from “except that” to the end.
Courts Act 1971 (c. 23)	In Schedule 8, in paragraph 48(b), the word “22(3)”.
Bail Act 1976 (c. 63)	In section 3(6), the words “to secure that”. In section 3A(5), the words “for the purpose of preventing that person from”. In section 5, in subsection (3), the words from “with a view” to “another court”, and in subsection (6), in paragraph (a) the words “to the High Court or” and paragraph (b). In section 5A(2), in the substituted version of section 5(3), the words from “with a view” to “vary the conditions”.
Supreme Court Act 1981 (c. 54)	In section 81(1)(g), the word “or” at the end of sub-paragraph (ii).
Criminal Justice Act 1991 (c. 53)	In Schedule 11, in paragraph 22(2), the words “and the words” onwards.
Criminal Justice and Public Order Act 1994 (c. 33)	Section 26. In Schedule 10, paragraphs 15 and 34.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In Schedule 9, paragraph 87(b).

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### PART 3

#### DISCLOSURE

##### Commencement Information

**1849** Sch. 37 Pt. 3 wholly in force at 15.7.2005; Sch. 37 Pt. 3 not in force at Royal Assent, see s. 336(3); Sch. 37 Pt. 3 in force for E.W. at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 44\(2\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#)); Sch. 37 Pt. 3 in force for N.I. at 15.7.2005 by [S.I. 2005/1817](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)](#))

##### Short title and chapter

##### Extent of repeal

Criminal Justice Act 1987 (c. 38)	In section 9(5)(i) and (iii).
Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (S.I. 1988/1846 (N.I. 16))	Article 8(5)(i) and (iii).
Criminal Procedure and Investigations Act 1996 (c. 25)	Section 5(6) to (9). Section 6(3). Section 7. Section 9. Section 20(2). Section 31(6)(a) and (c).

### PART 4

#### ALLOCATION AND SENDING OF OFFENCES

##### Commencement Information

**1850** Sch. 37 Pt. 4 in force at 28.5.2013 for specified purposes by [S.I. 2013/1103](#), [art. 2\(1\)\(d\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

**1851** Sch. 37 Pt. 4 partly in force; Sch. 37 Pt. 4 not in force at Royal Assent, see s. 336(3); Sch. 37 Pt. 4 in force for certain purposes at 9.5.2005 by [S.I. 2005/1267](#), [art. 2](#), [Sch. para. 1\(2\)](#); Sch. 37 Pt. 4 in force at 18.6.2012 for specified purposes for E.W.S. by [S.I. 2012/1320](#), [arts. 3\(f\)\(ii\)](#), [4\(1\)\(d\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#))

##### Short title and chapter

##### Extent of repeal

Bankers' Books Evidence Act 1879 (c. 11)	In section 4, the paragraph beginning "Where the proceedings". In section 5, the paragraph beginning "Where the proceedings".
Explosive Substances Act 1883 (c. 3)	Section 6(3).
Criminal Justice Act 1925 (c. 86)	Section 49(2).
Administration of Justice (Miscellaneous Provisions) Act 1933 (c. 36)	In section 2(2), paragraphs (aa) to (ac), paragraphs (iA) and (iB), and the words from "and in paragraph (iA)" to the end.

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Criminal Justice Act 1948 (c. 58)	Section 41(5A). In section 80, the definition of “Court of summary jurisdiction”.
Backing of Warrants (Republic of Ireland) Act 1965 (c. 45)	In the Schedule, in paragraph 4, the words “and section 2 of the Poor Prisoners Defence Act 1930 (legal aid before examining justices)”.
Criminal Procedure (Attendance of Witnesses) Act 1965 (c. 69)	Section 2(5).
Criminal Justice Act 1967 (c. 80)	In section 9(1), the words “, other than committal proceedings”. In section 36(1), the definition of “committal proceedings”.
Criminal Appeal Act 1968 (c. 19)	In section 9(2), the words from “section 41” to “either way offence”.
Firearms Act 1968 (c. 27)	In Schedule 6, in Part 2, paragraph 3.
Theft Act 1968 (c. 60)	Section 27(4A).
Criminal Justice Act 1972 (c. 71)	In section 46, subsections (1A) to (1C).
Bail Act 1976 (c. 63)	In section 3, subsections (8A) and (8B), and the subsection (10) inserted by paragraph 12(b) of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33). Section 5(6A)(a)(i).
Criminal Law Act 1977 (c. 45)	In Schedule 12, the entry relating to the Firearms Act 1968 (c. 27).
Interpretation Act 1978 (c. 30)	In Schedule 1, in the definition of “Committed for trial”, paragraph (a).
Customs and Excise Management Act 1979 (c. 2)	Section 147(2).
Magistrates' Courts Act 1980 (c. 43)	Sections 4 to 8, and the cross-heading preceding section 4. In section 8B(6)(a), the words “commits or”. Section 24(1A) and (2). In section 25, subsections (3) to (8). F1039 ... Section 42. Section 97A. Section 103. Section 106. In section 128, in subsection (1)(b), the words “inquiring into or”, and in each of subsections (1A)(a), (3A), (3C)(a) and (3E)(a), the word “5,”. In section 130(1), the word “5,”. Section 145(1)(f).



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	In section 150(1), the definition of “committal proceedings”.
	In section 155(2)(a), the words “8 (except subsection (9))”.
	In Schedule 3, paragraph 2(a).
	In Schedule 5, paragraph 2.
	In Schedule 7, paragraph 73.
Criminal Justice (Amendment) Act 1981 (c. 27)	The whole Act.
Criminal Attempts Act 1981 (c. 47)	In section 2(2)(g), the words “or committed for trial”.
Contempt of Court Act 1981 (c. 49)	Section 4(4).
Supreme Court Act 1981 (c. 54)	Section 76(5). Section 77(4). In section 81—
	(a) in subsection (1)(a), the words “who has been committed in custody for appearance before the Crown Court or in relation to whose case a notice of transfer has been given under a relevant transfer provision or”,
	(b) subsection (1)(g)(i),
	(c) subsection (7).
Criminal Justice Act 1982 (c. 48)	Section 61. In Schedule 9, paragraph 1(a).
Mental Health Act 1983 (c. 20)	In section 52(7)(b), the words “where the court proceeds under subsection (1) of that section,”.
Police and Criminal Evidence Act 1984 (c. 60)	Section 62(10)(a)(i). In section 71, the paragraph beginning “Where the proceedings”.
	Section 76(9).
	Section 78(3).
Prosecution of Offences Act 1985 (c. 23)	In section 16, subsections (1)(b), (2)(aa) and (12). In section 23A(1)(b), the words from “under” to “1998”.
	In Schedule 1, paragraphs 2 and 3.
Criminal Justice Act 1987 (c. 38)	Sections 4 to 6. In section 11—
	(a) subsection (2)(a),
	(b) subsection (3),
	(c) in subsection (7), the word “(3),”,
	(d) in subsection (8), the word “(3),”,
	(e) subsections (9) and (10),
	(f) in subsection (11), paragraphs (a) and (d).
	In Schedule 2, paragraphs 1, 9 and 14.

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Criminal Justice Act 1988 (c. 33)	Section 23(5). Section 24(5). In section 26, the paragraph beginning “This section shall not apply”. In section 27, the paragraph beginning “This section shall not apply”. Section 30(4A). Section 33. In section 40(1), the words “were disclosed to a magistrates' court inquiring into the offence as examining justices or”. Section 41. Section 144. In Schedule 15, paragraphs 10, 66 and 104.
Road Traffic Offenders Act 1988 (c. 53)	Section 11(3A). Section 13(7). Section 16(6A). Section 20(8A).
Courts and Legal Services Act 1990 (c. 41)	In Schedule 18, paragraph 25(5).
Broadcasting Act 1990 (c. 42)	In Schedule 20, paragraph 29(1).
Criminal Justice Act 1991 (c. 53)	Section 53. Section 55(1). Schedule 6. In Schedule 11, paragraph 25.
Criminal Justice and Public Order Act 1994 (c. 33)	Section 34(2)(a). Section 36(2)(a). Section 37(2)(a). In Schedule 9, paragraphs 12, 17(c), 18(d), 25, 27, 29 and 49. In Schedule 10, paragraphs 40 and 71.
Criminal Procedure and Investigations Act 1996 (c. 25)	In section 1(2), paragraphs (a) to (c) and, in paragraph (cc), the words from “under” to the end. In section 5, subsections (2) and (3). In section 13(1), paragraphs (a) to (c) of the modified section 3(8). Section 28(1)(b). Section 44(3). Section 45. Section 49(4). Section 68. In Schedule 1, paragraphs 2 to 5, 8, 10, 12, 13, 15 to 19, 22(3), 24 to 26, 28 to 32, and 34 to 38. Schedule 2.
Sexual Offences (Protected Material) Act 1997 (c. 39)	Section 9(1).
Crime and Disorder Act 1998 (c. 37)	Section 47(6).

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	In section 50(1), the words “unless the accused falls to be dealt with under section 51 below”.
	In Schedule 3, in paragraph 2, subparagraphs (4) and (5), paragraph 12, and in paragraph 13(2), the words from “unless” to the end.
	In Schedule 8, paragraphs 8, 37, 40, 65 and 93.
Access to Justice Act 1999 (c. 22)	Section 67(3). In Schedule 4, paragraphs 16, 39 and 47. In Schedule 13, paragraphs 96, 111 and 137.
Youth Justice and Criminal Evidence Act 1999 (c. 23)	Section 27(10). In section 42(3), paragraphs (a) and (b).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 89(2)(b), the words “trial or”. In section 140(1)(b), the words “was committed to the Crown Court to be tried or dealt with or by which he”. In Schedule 9, paragraphs 62, 63, 64(2), 65, 91 and 201. In Schedule 11, paragraph 9.

#### Textual Amendments

**F1039** Words in Sch. 37 Pt. 4 repealed (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 149, 153(1)(a), Sch. 26 para. 77, [Sch. 28 Pt. 4](#)

## PART 5

### EVIDENCE OF BAD CHARACTER

<b>Short title and chapter</b>	<b>Extent of repeal</b>
Criminal Procedure Act 1865 (c. 18)	In section 6, the words “and upon being so questioned, if”.
Criminal Evidence Act 1898 (c. 36)	Section 1(3).
Children and Young Persons Act 1963 (c. 37)	Section 16(2) and (3).
Criminal Evidence Act 1979 (c. 16)	In section 1, the words from “each of the following” to “1898, and”.
Police and Criminal Evidence Act 1984 (c. 60)	In section 74(3), the words from “in so far” to “he is charged,”.
Criminal Justice and Public Order Act 1994 (c. 33)	Section 31.
Crime (Sentences) Act 1997 (c. 43)	In Schedule 4, paragraph 4.

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Youth Justice and Criminal Evidence Act 1999 (c. 23)	In Schedule 4, paragraph 1(5).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In Schedule 9, paragraph 23.

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## PART 6

### HEARSAY EVIDENCE

#### Commencement Information

**1852** Sch. 37 Pt. 6 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), Sch. 1 para. 44(3) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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Short title and chapter	Extent of repeal
Registered Designs Act 1949 (c. 88)	In section 17, in subsection (8) the words “Subject to subsection (11) below,” and in subsection (10) the words “, subject to subsection (11) below,”.
Patents Act 1977 (c. 37)	In section 32, in subsection (9) the words “Subject to subsection (12) below,” and in subsection (11) the words “, subject to subsection (12) below,”.
Criminal Justice Act 1988 (c. 33)	Part 2. Schedule 2. In Schedule 13, paragraphs 2 to 5. In Schedule 15, paragraph 32. In Schedule 4, paragraph 6(2).
Finance Act 1994 (c. 9)	Section 22(2)(b). In Schedule 7, paragraph 1(6)(b).
Value Added Tax Act 1994 (c. 23)	In Schedule 11, paragraph 6(6)(b).
Criminal Justice and Public Order Act 1994 (c. 33)	In Schedule 9, paragraph 31.
Civil Evidence Act 1995 (c. 38)	In Schedule 1, paragraph 12.
Finance Act 1996 (c. 8)	In Schedule 5, paragraph 2(6)(a).
Criminal Procedure and Investigations Act 1996 (c. 25)	In Schedule 1, paragraphs 28 to 31.
Crime and Disorder Act 1998 (c. 37)	In Schedule 3, paragraph 5(4).
Youth Justice and Criminal Evidence Act 1999 (c. 23)	In Schedule 4, paragraph 16.
Finance Act 2000 (c. 17)	In Schedule 6, paragraph 126(2)(a).
Finance Act 2001 (c. 9)	In Schedule 7, paragraph 3(2)(a).

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Crime (International Co-operation) Act 2003 (c. 32) In section 9(4), the words “section 25 of the Criminal Justice Act 1988 or”.

## PART 7

### SENTENCING: GENERAL

#### Commencement Information

- I853** Sch. 37 Pt. 7 in force for certain purposes at 27.2.2004 by S.I. 2004/81, art. 5; Sch. 37 Pt. 7 in force for certain purposes at 5.4.2004 by S.I. 2004/829, art. 2(1)(2) (subject to art. 2(3)-(6)); Sch. 37 Pt. 7 in force for certain purposes at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4) (subject to art. 2(2), Sch. 2 (as amended (3.12.2012) by S.I. 2012/2905, art. 4(1)(a)(2))); Sch. 37 Pt. 7 in force at 3.12.2012 for specified purposes by S.I. 2012/2905, art. 3(1)(a) (2) (4) (with art. 3(3))
- I854** Sch. 37 Pt. 7 in force at 1.5.2013 for specified purposes by S.I. 2012/2905, art. 3(1)(b)
- I855** Sch. 37 Pt. 7 in force at 14.7.2022 for specified purposes by S.I. 2022/816, regs. 1(2), 2(b)

Short title and chapter	Extent of repeal
Piracy Act 1837 (c. 88)	Section 3.
Children and Young Persons Act 1933 (c. 12)	In section 16(3), the words “mandatory and”.
Criminal Justice Act 1967 (c. 80)	In section 104, in subsection (1) the definition of “suspended sentence” and subsection (2).
Criminal Appeal Act 1968 (c. 19)	In section 10 subsection (2)(c) and the word “or” immediately preceding it. Section 11(4).
Social Work (Scotland) Act 1968 (c. 49)	In section 94(1), the definition of “community rehabilitation order”.
Bail Act 1976 (c. 63)	In section 2(1)(d), the words “placing the offender on probation or”.
Magistrates' Courts Act 1980 (c. 43)	In section 82(4A), paragraph (e) and the word “or” immediately preceding it. Section 133(2). In Schedule 6A, the entry relating to section 123(3) of the Powers of Criminal Courts (Sentencing) Act 2000.
Forgery and Counterfeiting Act 1981 (c. 45)	Section 23(1)(b), (2)(b) and (3)(b).
Mental Health Act 1983 (c. 20)	In section 37(1B), the words “109(2),”. In section 45A(1)(b), the words from “except” to “1997”.
Road Traffic Offenders Act 1988 (c. 53)	In section 46(1), paragraph (a) and the word “or” following it.

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Football Spectators Act 1989 (c. 37)	In section 7, subsection (9) and in subsection (10)(b) the words from “(or” to the end.
Children Act 1989 (c. 41)	In section 68(2)(d), the words “a probation order has been made in respect of him or he has been”. In Schedule 9A, in paragraph 4(2)(g), the words “placed on probation or”.
Criminal Justice Act 1991 (c. 53)	Sections 32 to 51. Section 65. Schedule 5. In Schedule 12— (a) in paragraph 8(8), paragraph (d), and (b) in paragraph 9(3), paragraph (c).
Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)	In section 10(1)(a), sub-paragraph (i) and the succeeding “or”.
Criminal Justice Act 1993 (c. 36)	Section 67(1).
Criminal Justice and Public Order Act 1994 (c. 33)	In section 25(3)(c), the words “placing the offender on probation or”.
Criminal Procedure (Scotland) Act 1995 (c. 46)	In section 234— (a) in subsection (1), the words after paragraph (b), (b) in subsection (3), the words from “or to vary” to “one hundred”, and (c) subsection (11).
Crime (Sentences) Act 1997 (c. 43)	Sections 35 and 40. In Schedule 1, paragraph 15(5). In Schedule 2, paragraphs 2 and 3. In Schedule 4, paragraphs 6(2), 7, 10(1), 12(1), 13 and 15(10).
Crime and Disorder Act 1998 (c. 37)	In section 18, subsection (2). In section 38(4)(i), the words “section 37(4A) or 65 of the 1991 Act or”. Sections 59 and 60. Sections 80 and 81. Sections 99 and 100. Sections 101(1). Sections 103 to 105. In section 121(12), the words from the beginning to “paragraphs 56 to 60 of Schedule 8 to this Act;”. In Schedule 7, paragraph 50. In Schedule 8, paragraphs 11, 13(2), 56, 58, 59, 79 to 84, 86 to 91, 94, 97, 132 and 135(3) and (4).
Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))	In Schedule 5, paragraph 28(b).

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Access to Justice Act 1999 (c. 22)

Section 58(5).

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

Section 6(4)(d).

Section 12(4).

Sections 34 to 36A.

In section 36B, subsections (4) and (8) and, in subsection (9), the words from “a community punishment order” to “a drug abstinence order”.

In section 37, in subsection (9) the words “who on conviction is under 16” and subsection (10).

In section 40A, subsection (4), in subsection (9) the words “who on conviction is under 16” and subsection (10).

Sections 41 to 59.

In section 60, in subsection (1), paragraph (c) and the word “or” immediately preceding it.

Section 62.

Section 69(11).

Section 73(7).

Sections 78 to 82.

Section 84.

Section 85.

Sections 87 and 88.

Section 91(2).

Section 100(4).

Section 106(2) and (3).

Section 109.

Section 110(3).

Section 111(3).

In section 112(1)(a), the words “109,”.

In section 113, in subsection (1)(a), the words “a serious offence or” and in subsection (3), the words ““serious offence”,” and “109,”.

In section 114(1)(b), the words “a serious offence,”.

In section 115, the word “109,”.

Sections 116 and 117.

Sections 118 to 125.

Sections 126 to 129.

Sections 151 to 153.

Sections 156 to 158.

In section 159, the words “, 121(1) or 123(1)” and “paragraph 6(6) of Schedule 4 to this Act,”.

In section 160—

(a) in subsection (2), in paragraph (a) the words from “42(2E)” to “Schedule 2” and in paragraph (b) the words from “122(7)” to the end,

(b) in subsection (3), in paragraph (a) the words “45, 50, 58, 58A(4), 85(7),”

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paragraph (b) and the word “or”  
immediately preceding it,

- (c) subsection (4), and
- (d) in subsection (5), in paragraph (a) the words from “or paragraph 7” to the end, and in paragraph (b) the words from “42(2E)” to the end.

Section 161(2) to (4).

Section 162.

In section 163, in the definition of “affected person”, paragraphs (b) and (c), the definitions of “the appropriate officer of the court”, “community punishment and rehabilitation order”, “community rehabilitation order”, “community rehabilitation period”, “community punishment order”, the definitions of “drug abstinence order”, “drug treatment and testing order”, “falling to be imposed under section 109(2), 110(2) or 11(2)”, “pre-sentence report”, “protecting the public from serious harm”, in the definition of “responsible officer”, paragraphs (b) to (ee) and the words from “except that” to “that section;”, the definitions of “review hearing”, “sexual offence”, “specified Class A drug”, “suspended sentence supervision order”, “the testing requirement”, “the treatment provider”, “the treatment requirement”, “the treatment and testing period”, “trigger offence” and “violent offence”.

In section 168—

- (a) in subsection (1), the words “to subsection (2) below and”, and
- (b) subsections (2) and (3).

Schedule 2.

Schedule 4.

In Schedule 7, paragraph 3(4).

In Schedule 8, paragraph 3(4).

In Schedule 9, paragraphs 7, 24(a), 26(2), 28, 29, 52, 54(3), 55, 61, 76, 81, 82, 89(2), 90(2), 94, 102, 137 to 145, 147(2) and (3)(a) to (d) and (e)(i), 151, 174, 176(2) to (5) and (7), 177(2) and (3), 184, 185, 186(3) and (4), 187(2), (3) and (5), 196 and 202.

Terrorism Act 2000 (c. 11)

In Schedule 15, paragraph 20.

Child Support, Pensions and Social Security Act 2000 (c. 19)

Section 62(10).

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

Section 47 to 51.  
Sections 53 to 55.  
Section 63.



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	Section 64(5)(e). In section 78(1), the definition of “community order”. In Schedule 7, paragraphs 1 to 3, 104 to 107, 111(b), 123(a) and (c) to (f), 124(a) and (b), 133, 139, 140, 161, 162, 165 to 172, 177, 179, 189, 196(c)(ii) and (iii), 197(c) and (g) (ii), 198 to 200 and 206(a).
Anti-terrorism, Crime and Security Act 2001 (c. 24)	Section 39(7).
Proceeds of Crime Act 2002 (c. 29)	In Schedule 11, paragraph 32.

## PART 8

### LIFE SENTENCES

Short title and chapter	Extent of repeal
Murder (Abolition of Death Penalty) Act 1965 (c. 71)	Section 1(2).
Repatriation of Prisoners Act 1984 (c. 47)	In section 2(4)(b)(i), the words “or 29(1)”. Section 3(9). Paragraph 3 of the Schedule.
Crime (Sentences) Act 1997 (c. 43)	Section 29. Section 31(4). Section 33. In section 34(3), the words from the beginning to “advocate; and”.
Crime and Punishment (Scotland) Act 1997 (c. 48)	In Schedule 1, paragraph 10(3).
Crime and Disorder Act 1998 (c. 37)	In Schedule 8, paragraphs 57 and 60.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 82A, in subsection (4) the words “subject to subsection (5) below”, and subsections (5) and (6).

## PART 9

### ALTERATION OF PENALTIES FOR SUMMARY OFFENCES

#### Commencement Information

**1856** Sch. 37 Pt. 9 partly in force; Sch. 37 Pt. 9 in force for certain purposes at Royal Assent see [s. 336\(1\)](#)

Short title and chapter	Extent of repeal
Vagrancy Act 1824 (c. 83)	Section 5.

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	Section 10.
Railway Regulation Act 1842 (c. 55)	In section 17, the words from “be imprisoned” (where first occurring) to “discretion of such justice, shall”.
London Hackney Carriages Act 1843 (c. 86)	In section 28, the words from “; or it shall be lawful” to the end.
Town Police Clauses Act 1847 (c. 89)	In section 28, the words from “, or, in the discretion” to “fourteen days”. In section 29, the words from “, or, in the discretion” to the end. In section 36, the words from “, or, in the discretion” to “one month”.
Ecclesiastical Courts Jurisdiction Act 1860 (c. 32)	In section 2, the words from “, or may, if the justices” to the end.
Town Gardens Protection Act 1863 (c. 13)	In section 5, the words “, or to imprisonment for any period not exceeding fourteen days”.
Public Stores Act 1875 (c. 25)	In section 8, the words from “, or, in the discretion” to the end.
North Sea Fisheries Act 1893 (c. 17)	In section 2— (a) in paragraph (a), the words from “, or, in the discretion” to the end, and (b) in paragraph (b), the words from “, or in the discretion” to the end. In section 3(a), the words from “, or, in the discretion” to the end.
Children and Young Persons Act 1933 (c. 12)	In section 4(1), the words from “, or alternatively” to the end.
Protection of Animals Act 1934 (c. 21)	In section 2, the words from “, or, alternatively” to the end.
Public Health Act 1936 (c. 49)	In section 287(5), the words from “or to imprisonment” to the end.
Essential Commodities Reserves Act 1938 (c. 51)	In section 4(2), the words from “or to imprisonment” to the end.
London Building Acts (Amendment) Act 1939 (c. xcvi)	In section 142(5), the words from “or to imprisonment” to the end.
Cancer Act 1939 (c. 13)	In section 4(2), the words from “or to imprisonment” to the end.
Civil Defence Act 1939 (c. 31)	In section 77, the words from “or to imprisonment” to the end.
Hill Farming Act 1946 (c. 73)	In section 19— (a) in subsection (2), the words from “, or to imprisonment” to the end, and (b) in subsection (3), the words from “or to imprisonment” to the end.

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Agriculture Act 1947 (c. 48)	In section 14(7) (as remaining in force for the purposes of section 95), the words— (a) “to imprisonment for a term not exceeding three months or”, and (b) “or to both such imprisonment and such fine”. In section 95(3), the words— (a) “to imprisonment for a term not exceeding three months or”, and (b) “or to both such imprisonment and such fine”.
Civil Defence Act 1948 (c. 5)	In section 4(4), the words from “or to imprisonment” to the end.
Agricultural Wages Act 1948 (c. 47)	In section 12(7), the words from “or to imprisonment” to the end.
Wireless Telegraphy Act 1949 (c. 54)	In section 14(1B), the words— (a) “to imprisonment for a term not exceeding three months or”, and (b) “, or both”.
Prevention of Damage by Pests Act 1949 (c. 55)	In section 22(5), the words from “or to imprisonment” to the end.
Coast Protection Act 1949 (c. 74)	In section 25(9), the words from “or to imprisonment” to the end.
Pet Animals Act 1951 (c. 35)	In section 5— (a) in subsection (1), the words “other than the last foregoing section” and the words from “or to imprisonment” to the end, and (b) subsection (2).
Cockfighting Act 1952 (c. 59)	In section 1(1), the words— (a) “to imprisonment for a term not exceeding three months, or”, and (b) “, or to both such imprisonment and such fine”.
Agricultural Land (Removal of Surface Soil) Act 1953 (c. 10)	In section 2(1)— (a) paragraph (a) of the proviso, (b) the word “; or” immediately preceding paragraph (b) of the proviso, and (c) the words “or to both”.
Accommodation Agencies Act 1953 (c. 23)	In section 1(5), the words from “or to imprisonment” to the end.
Army Act 1955 (3 & 4 Eliz. 2 c. 18)	In section 19(1), the words “to imprisonment for a term not exceeding three months or”. In section 161, the words from “, or to imprisonment” to the end. In section 171(1), the words from “, or to imprisonment” to the end.

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	<p>In section 191, the words from “or to imprisonment” to the end.</p> <p>In section 193, the words from “or to imprisonment” to the end.</p> <p>In section 196(3), the words from “or to imprisonment” to the end.</p> <p>In section 197(3), the words from “or to imprisonment” to the end.</p>
Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)	<p>In section 19(1), the words “to imprisonment for a term not exceeding three months or”.</p> <p>In section 161, the words from “, or to imprisonment” to the end.</p> <p>In section 171(1), the words from “, or to imprisonment” to the end.</p> <p>In section 191, the words from “or to imprisonment” to the end.</p> <p>In sections 193, the words from “or to imprisonment” to the end.</p> <p>In section 196(3), the words from “or to imprisonment” to the end.</p> <p>In section 197(3), the words from “or to imprisonment” to the end.</p>
Naval Discipline Act 1957 (c. 53)	<p>In section 96, the words from “or to imprisonment” to the end.</p> <p>In section 99(3), the words from “or to imprisonment” to the end.</p>
Agricultural Marketing Act 1958 (c. 47)	<p>In section 45(6), the words—</p> <p>(a) “to imprisonment for a term not exceeding one month, or”, and</p> <p>(b) “, or to both such imprisonment and such fine”.</p>
Rivers (Prevention of Pollution) Act 1961 (c. 50)	<p>In section 12(2), the words from “or to imprisonment” to the end.</p>
Betting, Gaming and Lotteries Act 1963 (c. 2)	<p>In section 8(1), the words—</p> <p>(a) “or to imprisonment for a term not exceeding three months, or to both”, and</p> <p>(b) “in any case”.</p>
Children and Young Persons Act 1963 (c. 37)	<p>In section 40—</p> <p>(a) in subsection (1), the words from “or imprisonment” to the end, and</p> <p>(b) in subsection (2), the words from “or imprisonment” to the end.</p>
Animal Boarding Establishments Act 1963 (c. 43)	<p>In section 3—</p> <p>(a) in subsection (1), the words “other than the last foregoing section” and the words from “or to imprisonment” to the end, and</p> <p>(b) subsection (2).</p>

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Agriculture and Horticulture Act 1964 (c. 28)	In section 20(2), the words from “or to imprisonment” to the end.
Emergency Laws (Re-enactments and Repeals) Act 1964 (c. 60)	In Schedule 1— (a) in paragraph 1(3), the words “to imprisonment for a term not exceeding three months or” and “, or to both”, and (b) in paragraph 2(4), the words “to imprisonment for a term not exceeding three months or” and “, or to both”.
Riding Establishments Act 1964 (c. 70)	In section 4(1), the words from “or to imprisonment” to the end.
Industrial and Provident Societies Act 1965 (c. 12)	In section 16(5), the words from “or to imprisonment” to the end. In section 48(2), the words from “or to imprisonment” to the end.
Cereals Marketing Act 1965 (c. 14)	In section 17(1), the words from “or to imprisonment” to the end.
Gas Act 1965 (c. 36)	In Schedule 6, in paragraph 9, the words from “or to imprisonment” to the end.
Armed Forces Act 1966 (c. 45)	In section 8, the words “to imprisonment for a term not exceeding three months or”.
Agriculture Act 1967 (c. 22)	In section 6(9), the words from “or to imprisonment” to the end. In section 14(2), the words from “or to imprisonment” to the end. In section 69, the words from “or imprisonment” to the end.
Criminal Justice Act 1967 (c. 80)	Section 20.
Sea Fisheries (Shellfish) Act 1967 (c. 83)	In section 14(2), the words from “or to imprisonment” to the end.
Theatres Act 1968 (c. 54)	In section 13(3), the words from “or to imprisonment” to the end.
F1040 .....	F1040 .....
Agriculture Act 1970 (c. 40)	In section 106(8), the words from “or imprisonment” to the end.
Breeding of Dogs Act 1973 (c. 60)	In section 3(1)— (a) paragraph (a), (b) the word “; or” immediately preceding paragraph (b), and (c) the words “or to both”.
Slaughterhouses Act 1974 (c. 3)	In section 38(5), the words “or imprisonment for a term of three months or both”.
National Health Service Act 1977 (c. 49)	In Schedule 11—

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- Magistrates' Courts Act 1980 (c. 43)

  - (a) in paragraph 8(3), the words “to imprisonment for a term not exceeding three months or” and “, or to both”, and
  - (b) in paragraph 9(4), the words “to imprisonment for a term not exceeding three months or” and “, or to both”.
- Animal Health Act 1981 (c. 22)

In section 84(3), the words—

  - (a) “imprisonment for a term not exceeding 4 months or”, and
  - (b) “to both”.
- Fisheries Act 1981 (c. 29)

In paragraph 6 of Schedule 1, the words—

  - (a) “or to imprisonment for a term not exceeding 2 months,”, and
  - (b) “in either case”.
- Civil Aviation Act 1982 (c. 16)

In section 5(4), the words from “or to imprisonment” to the end.
- Criminal Justice Act 1982 (c. 48)

In section 82(2), the words from “or to imprisonment” to the end.
- Mental Health Act 1983 (c. 20)

Section 70.

Section 43(5).

In section 103(9), the words—

  - (a) “to imprisonment for a term not exceeding three months or”, and
  - (b) “or both”.

In section 129(3), the words—

  - (a) “to imprisonment for a term not exceeding three months or”, and
  - (b) “or to both”.
- Building Act 1984 (c. 55)

In section 96(3), the words “or to imprisonment for a term not exceeding three months”.
- Surrogacy Arrangements Act 1985 (c. 49)

In section 4(1)—

  - (a) paragraph (a), and
  - (b) in paragraph (b), the words “in the case of an offence under section 3”.
- Animals (Scientific Procedures) Act 1986 (c. 14)

In section 22(3), the words—

  - (a) “to imprisonment for a term not exceeding three months or”, and
  - (b) “or to both”.

In section 23(2), the words—

  - (a) “to imprisonment for a term not exceeding three months or”, and
  - (b) “or to both”.

In section 25(3), the words—

  - (a) “to imprisonment for a term not exceeding three months or”, and
  - (b) “or to both”.

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Motor Cycle Noise Act 1987 (c. 34)	In the Schedule, in paragraph 1(1), the words “to imprisonment for a term not exceeding three months or”.
Human Organ Transplants Act 1989 (c. 31)	In section 2(5), the words— (a) “imprisonment for a term not exceeding three months or”, and (b) “or both”.
Town and Country Planning Act 1990 (c. 8)	In Schedule 15, in paragraph 14(4), the words from “or to imprisonment” to the end.
Environmental Protection Act 1990 (c. 43)	In section 118(7), the words from “or to imprisonment” to the end.
Criminal Justice Act 1991 (c. 53)	Section 26(5).
Deer Act 1991 (c. 54)	In section 10(3), the words from “or to imprisonment” to the end.
Water Industry Act 1991 (c. 56)	In section 206(9), the words— (a) “to imprisonment for a term not exceeding three months or”, and (b) “or to both”. In Schedule 6, in paragraph 5(5), the words— (a) “to imprisonment for a term not exceeding three months or”, and (b) “or to both”.
Social Security Administration Act 1992 (c. 5)	In section 105(1), the words— (a) “to imprisonment for a term not exceeding 3 months or”, and (b) “or to both”. In section 182(3), the words— (a) “to imprisonment for a term not exceeding 3 months or”, and (b) “or to both”.
Local Government Finance Act 1992 (c. 14)	In section 27(5), the words— (a) “imprisonment for a term not exceeding three months or”, and (b) “or both”.
Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)	In section 240(3), the words— (a) “to imprisonment for a term not exceeding three months or”, and (b) “or both”.
Merchant Shipping Act 1995 (c. 21)	In section 57(2)— (a) in paragraph (a), the words “except in a case falling within paragraph (b) below,”, and (b) paragraph (b).
Reserve Forces Act 1996 (c. 14)	In section 75(5), the words— (a) “imprisonment for a term not exceeding 3 months or”, and

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	(b) “(or both)”.
	In section 82(1), the words—
	(a) “imprisonment for a term not exceeding 3 months”, and
	(b) “(or both)”.
	In section 87(1), the words—
	(a) “imprisonment for a term not exceeding 3 months or”, and
	(b) “(or both)”.
	In section 99, the words—
	(a) “imprisonment for a term not exceeding 3 months”, and
	(b) “(or both)”.
	In Schedule 1, in paragraph 5(2), the words—
	(a) “imprisonment for a term not exceeding 3 months or”, and
	(b) “(or both)”.
Housing Act 1996 (c. 52)	In Schedule 1—
	(a) in paragraph 23(6), the words from “or imprisonment” to “or both”, and
	(b) in paragraph 24(6), the words from “or imprisonment” to “or both”.
Broadcasting Act 1996 (c. 55)	In section 144(4), the words—
	(a) “to imprisonment for a term not exceeding three months or”, and
	(b) “or to both”.
Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11)	In section 9—
	(a) in subsection (1), paragraph (a), the word “, or” immediately preceding paragraph (b) and the words “or to both”, and
	(b) in subsection (7), paragraph (a), the word “, or” immediately preceding paragraph (b) and the words “or to both”.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 6(4), paragraph (a).
Countryside and Rights of Way Act 2000 (c. 37)	In section 81, subsections (2) and (3).
Transport Act 2000 (c. 38)	In section 82, subsection (5).

#### Textual Amendments

**F1040**Sch. 37 Pt. 9: entry repealed (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 321, 324, [Sch. 22 Pt. 5\(B\)](#); S.I. 2009/3345, art. 2, Sch. para. 27



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## PART 10

### JURY SERVICE

#### Commencement Information

**I857** Sch. 37 Pt. 10 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), **art. 2(1)(2)** (subject to [art. 2\(3\)-\(6\)](#))

Short title and chapter	Extent of repeal
Juries Act 1974 (c. 23).	In section 2(5)(a), the word “9(1),”. In section 9, subsection (1) and in subsection (2) the words from “and” to the end.
Criminal Law Act 1977 (c. 45).	In Schedule 12, the entry relating to the Juries Act 1974.
Criminal Justice Act 1982 (c. 48).	In Schedule 14, paragraph 35.
Mental Health (Amendment) Act 1982 (c. 51).	In Schedule 3, paragraph 48.
Mental Health Act 1983 (c. 20).	In Schedule 4, paragraph 37.
Juries (Disqualification) Act 1984 (c. 34).	The whole Act.
Coroners Act 1988 (c. 13).	Section 9(2).
Criminal Justice Act 1988 (c. 33).	Section 119. In Schedule 8, paragraph 8.
Courts and Legal Services Act 1990 (c. 41).	In Schedule 17, paragraph 7. In Schedule 18, paragraph 5.
Criminal Justice Act 1991 (c. 53).	In Schedule 11, paragraph 18.
Probation Service Act 1993 (c. 47).	In Schedule 3, paragraph 5.
Police and Magistrates' Courts Act 1994 (c. 29).	In Schedule 8, paragraph 28.
Criminal Justice and Public Order Act 1994 (c. 33).	Section 40. Section 42. In Schedule 10, paragraph 29.
Criminal Appeal Act 1995 (c. 35).	In Schedule 2, paragraph 8.
Police Act 1996 (c. 16).	In Schedule 7, paragraph 23.
Police Act 1997 (c. 50).	In Schedule 9, paragraph 27.
Government of Wales Act 1998 (c. 38).	In Schedule 12, paragraph 18.
Scotland Act 1998 (c. 46).	Section 85(1).
Access to Justice Act 1999 (c. 22).	In Schedule 11, paragraph 22.
Criminal Justice and Court Services Act 2000 (c. 43).	In Schedule 7, paragraph 47.

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European Parliamentary Elections Act 2002 In Schedule 3, paragraph 2.  
(c. 24).

## PART 11

### REPEALS RELATING TO AMENDMENTS OF PART 5 OF POLICE ACT 1997

#### Commencement Information

**1858** Sch. 37 Pt. 11 partly in force; Sch. 37 Pt. 11 not in force at Royal Assent, see s. 336(3); Sch. 37 Pt. 11 in force for certain purposes at 29.1.2004 by [S.I. 2004/81](#), [art. 4](#); Sch. 37 Pt. 11 in force for E.W. for certain purposes at 6.4.2006 by [S.I. 2006/751](#), [art. 2](#)

Short title and chapter	Extent of repeal
Police Act 1997 (c. 50)	In section 115, subsections (3) to (5) and subsections (6C) to (6E). Section 120(3). In section 125, subsection (3) and, in subsection (4), the words “to which subsection (3) does not apply”.
Care Standards Act 2000 (c. 14)	Section 104(3)(a). In Schedule 4, paragraph 25(2)(a).
Private Security Industry Act 2001 (c. 12)	Section 21. Section 26(3)(a).
Health and Social Care Act 2001 (c. 15)	Section 19.
Criminal Justice and Police Act 2001 (c. 16)	Section 134(3) and (4).
National Health Service Reform and Health Care Professions Act 2002 (c. 17)	Section 42(7). In Schedule 2, paragraph 64.
Education Act 2002 (c. 32)	In Schedule 12, paragraph 15(2). In Schedule 13, paragraph 8(2).
Licensing Act 2003 (c. 17)	In Schedule 6, paragraph 116.

## PART 12

### MISCELLANEOUS

#### Commencement Information

**1859** Sch. 37 Pt. 12 partly in force; Sch. 37 Pt. 12 not in force at Royal Assent, see s. 336(3); Sch. 37 Pt. 12 in force for certain purposes at 5.4.2004 by [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#)); Sch. 37 Pt. 12 in force for certain purposes at 15.12.2004 by [S.I. 2004/3033](#), [art. 3](#); Sch. 37 Pt. 12 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#) Sch. 1 para. 44(5) (subject to [art. 2\(2\)](#), Sch. 2)

Short title and chapter	Extent of repeal
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Criminal Appeal Act 1968 (c. 19)	Section 10(4). In section 11(2), the words from “(which expression” to “purposes of section 10)”. In section 51(1), the definition of “the defendant”.
Bail Act 1976 (c. 63)	In section 5(1)(c), the words “a court or officer of a court appoints”.
Magistrates' Courts Act 1980 (c. 43)	In section 1(3), the words “and substantiated on oath”. Section 12(1)(a)(i). In section 13(3)(a), the words “the information has been substantiated on oath and”.
Criminal Appeal (Northern Ireland) Act 1980 (c. 47)	In section 19(1A)(a), the words “application for leave to”.
Criminal Procedure and Investigations Act 1996 (c. 25)	In Schedule 4, paragraph 16.
Crime and Disorder Act 1998 (c. 37)	In section 8(2), the words from “and to section 19(5)” to “2000”.
Youth Justice and Criminal Evidence Act 1999 (c. 23)	In Schedule 4, paragraphs 26 and 27.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 19(5), paragraph (c) and the word “or” immediately preceding it. In Schedule 9, paragraphs 194 and 195.
Criminal Justice and Court Services Act 2000 (c. 43)	Sections 67 and 68.

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SCHEDULE 38

Section 333(6)

TRANSITORY, TRANSITIONAL AND SAVING PROVISIONS

*Sentencing of offenders aged 18 but under 21*

- 1 If any provision of Part 12 (“the relevant provision”) is to come into force before the day on which section 61 of the Criminal Justice and Court Services Act 2000 (abolition of sentences of detention in a young offender institution, custody for life, etc.) comes into force (or fully into force) the provision that may be made by order under section 333(1) includes provision modifying the relevant provision with respect to sentences passed, or other things done, at any time before section 61 of that Act comes into force (or fully into force).

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F1041 . . .

**Textual Amendments**

**F1041** Cross-heading repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180, Sch. 22); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)(iv)

2 **F1042** . . . . .

**Textual Amendments**

**F1042** Sch. 38 para. 2 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180, Sch. 22); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)(iv)

3 **F1043** . . . . .

**Textual Amendments**

**F1043** Sch. 38 para. 3 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 177, 178, 182, Sch. 21 para. 88, **Sch. 23 Pt. 4** (with s. 180, Sch. 22); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)(iv)

PROSPECTIVE

*Drug treatment and testing orders*

4 A drug treatment and testing order made under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000 before the repeal of that section by this Act is in force (or fully in force) need not include the provision referred to in subsection (6) of section 54 of that Act (periodic review by court) if the treatment and testing period (as defined by section 52(1) of that Act) is less than 12 months.

PROSPECTIVE

*Drug testing as part of supervision of young offenders after release*

5 (1) Until the coming into force of the repeal by this Act of section 65 of the Criminal Justice Act 1991 (c. 53) (supervision of young offenders after release), that section has effect subject to the following modifications.

(2) In subsection (5B)—

- (a) in paragraph (a), for “18 years” there is substituted “ 14 years ”,
- (b) for paragraph (b) there is substituted—

“(b) a responsible officer is of the opinion—

- (i) that the offender has a propensity to misuse specified Class A drugs, and
- (ii) that the misuse by the offender of any specified Class A drug caused or contributed to any offence of which he has been convicted, or is likely to cause

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or contribute to the commission by him of further offences; and”.

(3) After subsection (5D) there is inserted—

“(5E) A person under the age of 17 years may not be required by virtue of subsection (5A) to provide a sample otherwise than in the presence of an appropriate adult.”

(4) For subsection (10) there is substituted—

“(10) In this section—

“appropriate adult”, in relation to a person aged under 17, means—

- (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation,
- (b) a social worker of a local authority <sup>F1044</sup> . . . , or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police;

“responsible officer” means—

- (a) in relation to an offender aged under 18, an officer of a local probation board or a member of a youth offending team;
- (b) in relation to an offender aged 18 or over, an officer of a local probation board;

“specified Class A drug” has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000 (c. 43).”

#### Textual Amendments

**F1044** Words in Sch. 38 para. 5(4) repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), ss. 64, 67, [Sch. 5 Pt. 4](#); [S.I. 2005/394](#), [art. 2\(2\)\(g\)](#); [S.I. 2006/885](#), [art. 2\(2\)\(h\)](#)

#### *Intermittent custody*

- 6 If section 183 (intermittent custody) is to come into force for any purpose before the commencement of the repeal by this Act of section 78 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (which imposes a general limit on the power of a magistrates' court to impose imprisonment), the provision that may be made by order under section 333(1) includes provision modifying any period or number of days specified in section 183 with respect to sentences passed by magistrates' courts before the commencement of that repeal.

#### *Transfer to Scotland of community orders and suspended sentence orders*

- 7 (1) Until the coming into force of the repeal by the Mental Health (Care and Treatment) (Scotland) Act 2003 of the Mental Health (Scotland) Act 1984 (c. 36), in the provisions mentioned in sub-paragraph (2) the reference to the Mental Health (Care and Treatment) (Scotland) Act 2003 has effect as a reference to the Mental Health (Scotland) Act 1984.

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(2) Those provisions are—

- (a) paragraph 2(4) of Schedule 9 (transfer of community orders to Scotland or Northern Ireland), and
- (b) paragraph 4 of Schedule 13 (transfer of suspended sentence orders to Scotland or Northern Ireland).

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**Commencement Information**

**1860** Sch. 38 para. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 45 (subject to **art. 2(2)**, Sch. 2)

**Status:**

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