



Criminal Justice Act 2003

2003 CHAPTER 44

PART 10 **E+W**

RETRIAL FOR SERIOUS OFFENCES

Part 10: supplementary

92 Functions of the DPP **E+W+N.I.**

- (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

- II** 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 **E+W+N.I.**

- (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.

Changes to legislation: Criminal Justice Act 2003, Cross Heading: Part 10: supplementary is up to date with all changes known to be in force on or before 23 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) View outstanding changes

- (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 **E+W**

[^{F1}(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 [^{F2}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.

[^{F3}(3) In subsection (2) “service offence” has the same meaning as in the Armed Forces Act 2006.]

Textual Amendments

- F1** 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](#)
- F2** 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](#)
- F3** 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

- I2** 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 **E+W+N.I.**

- (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,

Changes to legislation: Criminal Justice Act 2003, Cross Heading: Part 10: supplementary is up to date with all changes known to be in force on or before 23 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) View outstanding changes

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

Commencement Information

- I3** 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 **E+W+N.I.**

- (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)”.

Changes to legislation: Criminal Justice Act 2003, Cross Heading: Part 10: supplementary is up to date with all changes known to be in force on or before 23 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) View outstanding changes

- (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
 - (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—

Changes to legislation: Criminal Justice Act 2003, Cross Heading: Part 10: supplementary is up to date with all changes known to be in force on or before 23 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) View outstanding changes

- “(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—
- “(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),”.

Changes to legislation: Criminal Justice Act 2003, Cross Heading: Part 10: supplementary is up to date with all changes known to be in force on or before 23 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) View outstanding changes

(22) Omit section 95(2).

97 Application of Criminal Appeal Acts to proceedings under Part 10 **E+W+N.I.**

[^{F4}(1)] Subject to the provisions of this Part, the Secretary of State may make an order containing provision, in relation to proceedings [^{F5}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)^{F6}. . . (subject to any specified modifications).

[^{F7}(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 ^{F8} (subject to any specified modifications).]

Textual Amendments

- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 1980 c. 47.

Changes to legislation:

Criminal Justice Act 2003, Cross Heading: Part 10: supplementary is up to date with all changes known to be in force on or before 23 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/2574, Sch. by [S.I. 2012/2761 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 150(aa) inserted by [2012 c. 10 Sch. 26 para. 19\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 150(ba) inserted by [2012 c. 10 Sch. 26 para. 19\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 151(A1) inserted by [2008 c. 4 s. 11\(3\)](#)
- s. 151(1A) inserted by [2008 c. 4 s. 11\(5\)](#)
- s. 151(1A)(b) word substituted by [2008 c. 4 Sch. 4 para. 76\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(1A)(c) substituted by [2009 c. 25 Sch. 17 para. 8\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(2A)(b) substituted by [2009 c. 25 Sch. 17 para. 8\(4\)](#)
- s. 151(4A) inserted by [2009 c. 25 Sch. 17 para. 8\(5\)](#)
- s. 151(8)(a) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(a\)](#)
- s. 151(8)(b) words inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(i\)](#)
- s. 151(8)(b) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(ii\)](#)
- s. 151(8)(c)-(f) inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(c\)](#)
- s. 165(5) inserted by [2014 c. 12 s. 179\(3\)](#)
- s. 237(1A) inserted by [2006 c. 48 s. 34\(3\)](#)
- s. 237(1B)(f)(g) inserted by [2021 c. 11 Sch. 13 para. 40\(b\)](#)
- s. 239A inserted by [2015 c. 2 s. 8\(1\)](#)
- s. 239A cross-heading inserted by [2015 c. 2 Sch. 3 para. 5](#)
- s. 250(5C) inserted by [2015 c. 2 Sch. 3 para. 7\(4\)](#)
- s. 255A(4A) inserted by [2015 c. 2 s. 9\(2\)](#)
- s. 255B(3A) inserted by [2015 c. 2 s. 9\(3\)\(b\)](#)
- s. 255B(4A)-(4C) inserted by [2015 c. 2 s. 9\(3\)\(d\)](#)
- s. 255C(3A) inserted by [2015 c. 2 s. 9\(4\)\(b\)](#)
- s. 255C(4A)-(4C) inserted by [2015 c. 2 s. 9\(4\)\(d\)](#)
- s. 256A(1)-(1B) substituted for s. 256A(1) by [2015 c. 2 s. 9\(6\)\(a\)](#)
- s. 256A(4A)(4B) inserted by [2015 c. 2 s. 9\(6\)\(f\)](#)
- s. 256A(5)(6) substituted for s. 256A(5) by [2015 c. 2 s. 9\(6\)\(g\)](#)
- s. 256AZA inserted by [2015 c. 2 s. 10\(1\)](#)
- s. 257(3) inserted by [2006 c. 48 s. 34\(4\)](#)
- s. 258(1A) inserted by [2006 c. 48 s. 34\(5\)](#)
- s. 260(4)(aa) substituted for word by [2008 c. 4 s. 34\(7\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))

- Sch. 15B para. 49A omitted by [S.I. 2019/780 reg. 26\(4\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 15B para. 49B omitted by [S.I. 2019/780 reg. 26\(4\)\(d\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 20B para. 34(6)(7) substituted for Sch. 20B para. 34(6) by [2015 c. 2 Sch. 3 para. 10](#)