



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 12

#### GENERAL

#### 147 Orders, rules and regulations

(1) Orders, rules or regulations made by the Secretary of State or the Lord Chancellor under this Act are to be made by statutory instrument.

[<sup>F1</sup>(1A) Orders made by the Department of Justice in Northern Ireland under this Act are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.]

(2) Any [<sup>F2</sup>orders or regulations falling within subsection (1) or (1A)] —

- (a) may make provision generally or only for specified cases or circumstances;
- (b) may make different provision for different cases, circumstances or areas;
- (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.

(3) Subject to subsection (4), a statutory instrument containing any order or regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Subsection (3) does not apply to—

- (a) a statutory instrument containing an order under section 153,
- (b) a statutory instrument containing an order under paragraph 26(5) of Schedule 1,
- (c) a statutory instrument containing an Order in Council under paragraph 9 of Schedule 17, or
- (d) a statutory instrument to which subsection (5) applies.

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- (5) A statutory instrument containing (whether alone or with other provision)—
- (a) an order under section 4(3),
  - (b) an order under section 48(2),
  - (c) an order under section 77,
  - (d) an order under section <sup>F3</sup>... 91(3) which amends or repeals any provision of an Act,
  - <sup>F4</sup>(da) an order under section 98(6),]
  - (e) an order under section 102,
  - (f) regulations under any of sections 108 to 111,
  - (g) an order under section 135(6),
  - (h) an order under section 148(3) which amends or repeals any provision of an Act,
  - (i) an order under paragraph 27 or 35 of Schedule 1,
  - (j) an order under paragraph 25 of Schedule 2,
  - (k) rules under paragraph 2(4)(a) of Schedule 6, or
  - (l) an order under paragraph 6 of Schedule 7,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

<sup>F5</sup>(5A) Subject to subsection (5B), orders made by the Department of Justice in Northern Ireland under this Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(5B) Subsection (5A) does not apply to an order made by the Department of Justice containing (whether alone or with other provision) provision under section 83(4) or 91(3) which amends or repeals any provision of an Act; and no such order may be made by the Department unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(5C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (5B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]

(6) An order under section 153(5)(b) is to be made by statutory instrument.

(7) An order under section 153(6) is to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

#### Annotations:

##### Amendments (Textual)

- F1** S. 147(1A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 94(a)** (with arts. 28-31)
- F2** Words in s. 147(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 94(b)** (with arts. 28-31)
- F3** Words in s. 147(5)(d) omitted (3.12.2014) by virtue of [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), reg. 1(b), **Sch. 3 para. 14**
- F4** S. 147(5)(da) inserted (E.W.) (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 119(2)**, 185(1); S.I. 2014/949, art. 3, Sch. para. 9
- F5** S. 147(5A)-(5C) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 94(d)** (with arts. 28-31)

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## 148 Consequential etc. amendments and transitional and saving provision

- (1) Schedule 26 contains minor and consequential amendments.
- (2) Schedule 27 contains transitory, transitional and saving provisions.
- (3) The Secretary of State may by order make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,as the Secretary of State considers appropriate for the general purposes, or any particular purposes, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.
- (4) An order under subsection (3) may, in particular—
  - (a) provide for any amendment or other provision made by this Act which comes into force before any other provision (whether made by this or any other Act or by any subordinate legislation) has come into force to have effect, until that other provision has come into force, with specified modifications, and
  - (b) amend, repeal or revoke any provision of—
    - (i) any Act (including this Act and any Act passed in the same Session as this Act);
    - (ii) subordinate legislation made before the passing of this Act;
    - (iii) Northern Ireland legislation passed, or made, before the passing of this Act; and
    - (iv) any instrument made, before the passing of this Act, under Northern Ireland legislation.
- (5) Nothing in this section limits the power under section 153(8) to include provision for transitory, transitional or saving purposes in an order under that section.
- (6) The amendments that may be made by virtue of subsection (4)(b) are in addition to those made by or which may be made under any other provision of this Act.
- (7) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (8) Her Majesty may by Order in Council extend any provision made by virtue of subsection (4)(b), with such modifications as may appear to Her Majesty to be appropriate, to the Isle of Man or any British overseas territory.
- (9) The power under subsection (8) includes power to make supplementary, incidental, consequential, transitory, transitional or saving provision.
- (10) Subsection (8) does not apply in relation to amendments of the Armed Forces Act 2006 (c. 52).

### Annotations:

#### Commencement Information

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|-----------|---|
| <b>I1</b> | S. 148(1) in force at Royal Assent for specified purposes, see s. 153(1)(a)(k)(3) and in force for further specified purposes at 8.7.2008, see s. 153(2)(b)(c)(3); s. 148(2) in force for specified purposes at 8.7.2008, see s. 153(2)(f)(3); s. 148(3)-(7) in force at Royal Assent, see s. 153(1)(f) |
| <b>I2</b> | S. 148(1)(2) in force at 9.6.2008 for specified purposes by <a href="#">S.I. 2008/1466, art. 2(b)</a>   |
| <b>I3</b> | S. 148(1)(2) in force at 14.7.2008 for specified purposes by <a href="#">S.I. 2008/1586, art. 2(1), Sch. 1 para. 46</a>   |

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- I4** S. 148(1) in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 12**
- I5** S. 148(1)(2) in force at 26.1.2009 for specified purposes by S.I. 2008/2993, **art. 2(2)(h)**
- I6** S. 148(1) in force at 27.4.2009 for specified purposes by S.I. 2009/860, **art. 2(2)(d)**
- I7** S. 148(1) in force at 8.7.2009 for specified purposes by S.I. 2009/1678, **arts. 2(a), 3(a)**
- I8** S. 148(1) in force at 31.10.2009 for specified purposes by S.I. 2009/2606, **art. 3(e)**
- I9** S. 148(1)(2) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(b)(2)**
- I10** S. 148(1) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(3)**
- I11** S. 148(1)(2) in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(k)**
- I12** S. 148(1) in force at 23.3.2010 for specified purposes by S.I. 2010/712, **art. 2(b)**
- I13** S. 148(1) in force at 1.4.2010 for specified purposes by S.I. 2010/712, **art. 3(a)**
- I14** S. 148(1) in force at 8.4.2013 by S.I. 2013/616, **art. 2(a)**
- I15** S. 148(2) in force at 1.12.2008 for specified purposes by S.I. 2008/2993, **art. 2(1)(e)**
- I16** S. 148(2) in force at 19.12.2008 for specified purposes by S.I. 2008/3260, **art. 2(1)(c)**
- I17** S. 148(2) in force at 1.2.2009 for specified purposes by S.I. 2009/140, **art. 2(d)**
- I18** S. 148(2) in force at 1.4.2009 for specified purposes by S.I. 2009/860, **art. 2(1)(e)**
- I19** S. 148(2) in force at 3.8.2009 for specified purposes by S.I. 2009/1842, **art. 2(u)**
- I20** S. 148(2) in force at 1.10.2009 for specified purposes by S.I. 2009/2606, **art. 2(p)**

## 149 Repeals and revocations

Schedule 28 contains repeals and revocations, including repeals of spent enactments.

### Annotations:

#### Commencement Information

- I21** S. 149 partly in force; s. 149 in force for specified purposes at Royal Assent, see s. 153(1)(a)(j)(3) and in force for certain further purposes at 8.7.2008, see s. 153(2)(a)(d)(3)
- I22** S. 149 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 46**
- I23** S. 149 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 13**
- I24** S. 149 in force at 1.12.2008 for specified purposes by S.I. 2008/2993, **art. 2(1)(f)**
- I25** S. 149 in force at 1.4.2009 for specified purposes by S.I. 2009/860, **art. 2(1)(f)**
- I26** S. 149 in force at 27.4.2009 for specified purposes by S.I. 2009/860, **art. 2(2)(e)**
- I27** S. 149 in force at 31.10.2009 for specified purposes by S.I. 2009/2606, **art. 3(f)**
- I28** S. 149 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(l)**
- I29** S. 149 in force at 23.3.2010 for specified purposes by S.I. 2010/712, **art. 2(c)**

## 150 Financial provisions

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by virtue of this Act by a Minister of the Crown; and
- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

## 151 Effect of amendments to criminal justice provisions applied for purposes of service law

- (1) In this section “relevant criminal justice provisions” means provisions of, or made under, an Act which—
  - (a) relate to criminal justice; and

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- (b) have been applied (with or without modifications) for any purposes of service law by any provision of, or made under, any Act.
- (2) Unless the contrary intention appears, any amendment by this Act of relevant criminal justice provisions also amends those provisions as so applied.
- (3) Subsection (2) does not apply to any amendments made by Part 1.
- (4) In this section “service law” means—
  - (a) the system of service law established by the Armed Forces Act 2006 (c. 52); or
  - (b) any of the systems of service law superseded by that Act (namely, military law, air force law and the Naval Discipline Act 1957 (c. 53)).

**Annotations:**

**Commencement Information**

**I30** S. 151 in force at 31.10.2009 by S.I. 2009/2606, art. 3(g)

## 152 Extent

- (1) Subject as follows and to any other provision of this Act, this Act extends to England and Wales only.
- (2) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—
  - (a) section 77;
  - (b) section 96;
  - (c) section 113 (together with such of the other provisions of Part 7 as relate to the commission of offences under that section);
  - (d) Part 10;
  - (e) this Part (subject to subsection (5)).
- (3) The following provisions of this Act extend to England and Wales and Northern Ireland—
  - (a) section 3 and Schedule 3;
  - (b) section 39(3) and (6)(d) and paragraph 7 of Schedule 7;
  - (c) sections 63 to 68 and Schedule 14;
  - (d) section 76;
  - (e) section 85(6) [<sup>F6</sup>to (7B)] (so far as relating to any provision of Part 3 of the Magistrates' Courts Act 1980 which extends to Northern Ireland);
  - (f) sections 86 and 90 to 92 and Schedules 18 and 19.
- (4) The following provisions of this Act extend to Northern Ireland only—
  - (a) sections 82 and 83;
  - (b) sections 87 [<sup>F7</sup>, 88 and 89(1) to (5)];
  - (c) section 122 and Schedule 21.
- (5) Except as otherwise provided by this Act, an amendment, repeal or revocation of any enactment by any provision of this Act extends to the part or parts of the United Kingdom to which the enactment extends.

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- (6) The following amendments and repeals also extend to the Channel Islands and the Isle of Man—
- (a) the amendments of sections 26 and 70(1) of the Children and Young Persons Act 1969 (c. 54) (transfers between England or Wales and the Channel Islands or Isle of Man) made by Schedule 4, and
  - (b) the repeals in Part 1 of Schedule 28 relating to those amendments.
- (7) In section 7(2) of the Nuclear Material (Offences) Act 1983 (c. 18) (application to Channel Islands, Isle of Man, etc.) the reference to that Act includes a reference to that Act as amended by Schedule 17.
- (8) In section 9(4) of the Repatriation of Prisoners Act 1984 (c. 47) (power to extend provisions of that Act to the Channel Islands etc.) the reference to that Act includes a reference to that Act as amended by any provision of this Act.
- (9) In section 384 of the Armed Forces Act 2006 (c. 52) (extent to Channel Islands, Isle of Man, etc.) any reference to that Act includes a reference to—
- (a) that Act as amended by or under any provision of this Act,
  - (b) section 151, and
  - (c) paragraph 34 of Schedule 25.
- (10) Nothing in this section restricts the operation of section 76 and paragraph 27 of Schedule 27 in their application in relation to service offences (within the meaning of that paragraph).

**Annotations:**

**Amendments (Textual)**

- F6** Words in s. 152(3)(e) substituted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), reg. 1(b), **Sch. 3 para. 15(a)**
- F7** Words in s. 152(4)(b) substituted (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), reg. 1(b), **Sch. 3 para. 15(b)**

**153 Commencement**

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
- (a) section 53, Schedule 13, paragraph 77 of Schedule 26 and the repeals in Part 4 of Schedule 28 relating to—
    - (i) paragraphs 13 and 22 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), and
    - (ii) Part 4 of Schedule 37 to that Act;
  - (b) section 77;
  - (c) section 128;
  - (d) sections 138(1) to (4) and 139;
  - (e) section 147;
  - (f) section 148(3) to (7);
  - (g) sections 150 and 152;
  - (h) this section;
  - (i) section 154;

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- (j) paragraphs 6(3) and 12 to 16 of Schedule 16 and the repeals in Part 5 of Schedule 28 relating to Part 3A of the Public Order Act 1986 (c. 64);
  - (k) paragraphs 35 to 39 of Schedule 26.
- (2) The following provisions of this Act come into force at the end of the period of 2 months beginning with the day on which it is passed—
- (a) section 62 and the related repeal in Part 4 of Schedule 28;
  - (b) section 69 and paragraph 24 of Schedule 26;
  - (c) section 70 and paragraph 25 of Schedule 26;
  - (d) section 79 and the related repeals in Part 5 of Schedule 28;
  - (e) paragraphs 2 to 7 of Schedule 15;
  - (f) paragraph 24 of Schedule 27.
- (3) Where any particular provision or provisions of a Schedule come into force in accordance with subsection (1) or (2), the section introducing the Schedule also comes into force in accordance with that subsection so far as relating to the particular provision or provisions.
- (4) The following provisions come into force on such day as the Lord Chancellor may by order appoint—
- (a) section 19;
  - (b) section 41;
  - (c) sections 56 to 58;
  - (d) sections 80 to 92 and Schedules 18 and 19;
  - (e) paragraph 29 of Schedule 27.
- (5) Sections 119 to 121 come into force—
- (a) in relation to English NHS premises, on such day as the Secretary of State may by order appoint, and
  - (b) in relation to Welsh NHS premises, on such day as the Welsh Ministers may by order appoint.
- (6) Section 122 and Schedule 21 come into force on such day as the Department of Health, Social Services and Public Safety may by order appoint.
- (7) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint.
- (8) An order under any of subsections (4) to (7) may—
- (a) appoint different days for different purposes and in relation to different areas;
  - (b) make such provision as the person making the order considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision falling within that subsection.

## 154 Short title

This Act may be cited as the Criminal Justice and Immigration Act 2008.

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**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):

- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)