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STATUTORY INSTRUMENTS

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**2008 No. 1586 (C. 69)**

**CRIMINAL LAW, ENGLAND AND WALES  
CRIMINAL LAW, NORTHERN IRELAND  
CRIMINAL PROCEDURE,  
ENGLAND AND WALES  
CRIMINAL PROCEDURE, NORTHERN IRELAND  
LEGAL SERVICES COMMISSION,  
ENGLAND AND WALES  
POLICE, ENGLAND AND WALES  
PRISONS  
REPATRIATION**

The Criminal Justice and Immigration  
Act 2008 (Commencement No. 2 and  
Transitional and Saving Provisions) Order 2008

*Made* - - - -

*17th June 2008*

The Lord Chancellor and Secretary of State makes this Order in exercise of the powers conferred by the Criminal Justice and Immigration Act 2008(1) on the Lord Chancellor by section 153(4), and the Secretary of State by section 153(7) and (8), of that Act.

**Citation and interpretation**

1.—(1) This Order may be cited as the Criminal Justice and Immigration Act 2008 (Commencement No. 2 and Transitional and Saving Provisions) Order 2008.

(2) In this Order—

“the 1968 Act” means the Criminal Appeal Act 1968(2);

“the 1980 Act” means the Criminal Appeal (Northern Ireland) Act 1980<sup>(3)</sup>;

“the 2003 Act” means the Criminal Justice Act 2003<sup>(4)</sup>;

“the 2008 Act” means the Criminal Justice and Immigration Act 2008.

### **Appointed dates**

2.—(1) The date appointed for the coming into force of the provisions of the 2008 Act specified in Schedule 1, is 14 July 2008.

(2) The date appointed for the coming into force of paragraph 63 of Schedule 26 to, and section 148(1) of the 2008 Act so far as it relates to that paragraph, is 15 July 2008.

(3) Paragraph (1) is subject to Schedule 2 (Transitional and Saving Provisions).

Signed by the authority of the Lord Chancellor and Secretary of State

17 June 2008

*David Hanson*  
Minister of State  
Ministry of Justice

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(3) 1980 c.47  
(4) 2003 c.44

SCHEDULE 1

Article 2(1)

Provisions of the Criminal Justice and Immigration Act 2008 coming into force on 14 July 2008

1. Section 10 (Effect of restriction on imposing community sentences).
2. Section 11(1) (Restriction on power to make a community order).
3. Section 12 (Pre-sentence reports).
4. Section 13 (Sentences of imprisonment for public protection) and Schedule 5 (Offences specified for the purposes of sections 225(3A) and 227(2A) of the Criminal Justice Act 2003).
5. Section 14 (Sentences of detention for public protection).
6. Section 15 (Extended sentences for certain violent or sexual offences: persons 18 or over).
7. Section 16 (Extended sentences for certain violent or sexual offences: persons under 18).
8. Section 17 (The assessment of dangerousness).
9. Section 18 (Further amendments relating to sentences for public protection).
10. Section 20 (Consecutive terms of imprisonment).
11. Section 24 (Minimum conditions for early release under section 246(1) of the Criminal Justice Act 2003).
12. Section 25 (Release on licence under Criminal Justice Act 2003 of prisoners serving extended sentences).
13. Section 27 (Application of section 35(1) of the Criminal Justice Act 1991<sup>(5)</sup> to prisoners liable to removal from the UK).
14. Section 28 (Release of fine defaulters and contemnors under Criminal Justice Act 1991).
15. Section 29 (Release of prisoners after recall) save insofar as subsection (2) inserts subsections (9) and (10) of section 255A of the 2003 Act.
16. Section 30 (Further review and release of prisoners after recall).
17. Section 31 (Recall of life prisoners: abolition of requirement for recommendation by Parole Board).
18. Section 32 (Release of prisoners recalled following release under Criminal Justice Act 1991).
19. Section 38 (Imposition of unpaid work requirement for breach of community order).
20. Section 40 (Power to impose attendance centre requirement on fine defaulter).
21. Section 42 (Power to dismiss certain appeals following references by the CCRC: England and Wales).
22. Section 43 (Power to dismiss certain appeals following references by the CCRC: Northern Ireland).
23. Section 44 (Determination of prosecution appeals: England and Wales).
24. Section 45 (Determination of prosecution appeals: Northern Ireland).
25. Section 46(1) and (3) (Review of sentence on reference by Attorney General).
26. Section 47 (Further amendments relating to appeals in criminal cases) and Schedule 8 (Appeals in criminal cases).

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(5) 1991 c.53

27. Section 52 (Bail for summary offences and certain other offences to be tried summarily) and Schedule 12 (Bail for summary offences and certain other offences to be tried summarily).
28. Section 54 (Trial or sentencing in absence of accused in magistrates' courts).
29. Section 55 (Extension of powers of non-legal staff).
30. Section 56 (Provisional grant of right to representation).
31. Section 57 (Disclosure of information to enable assessment of financial eligibility).
32. Section 58 (Pilot schemes).
33. Section 59 (SFO's pre-investigation powers in relation to bribery and corruption: foreign officers etc.).
34. Section 72 (Offences committed outside the United Kingdom).
35. Section 73 (Grooming and adoption) and Schedule 15 (Sexual offences: grooming and adoption) to the extent not already in force.
36. Section 76 (Reasonable force for purposes of self-defence etc.).
37. Section 93 (Delivery of prisoner to place abroad for purposes of transfer out of the United Kingdom).
38. Section 94 (Issue of warrant transferring responsibility for detention and release of an offender to or from the relevant Minister).
39. Section 95 (Powers to arrest and detain persons believed to fall within section 4A(3) of Repatriation of Prisoners Act 1984<sup>(6)</sup>).
40. Section 96 (Amendments relating to Scotland).
41. Section 97 (Power to transfer functions under Crime (International Co-operation) Act 2003<sup>(7)</sup> in relation to direct taxation).
42. Section 126(1) (Police misconduct and performance procedures) insofar as it relates to the provision specified in paragraph 47.
43. Section 140 (Disclosure of information about convictions etc. of child sex offenders to members of the public) and Schedule 24 (Section 327A of the Criminal Justice Act 2003: meaning of "child sex offence").
44. Section 141 (Sexual offences prevention orders: relevant sexual offences).
45. Section 142 (Notification requirements: prescribed information).
46. Sections 148(1) and (2) and 149 insofar as they relate to the provisions specified in paragraphs 48, 49 and 50 respectively.
47. In Schedule 22 (Police misconduct and performance procedures), paragraph 6 (Police Advisory Board).
48. In Schedule 26 (Minor and consequential amendments)—
  - (a) paragraphs 2(1), (2), (4), (5) and (6), 59, 64, 65, 66, 67, 68, 69, 71, 72, 73, 74, 75 and 76 (2003 Act),
  - (b) paragraph 3 (Prison Act 1952 (c.52)),
  - (c) paragraph 4 (Criminal Justice Act 1961 (c.39)),

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(6) 1984 c.47

(7) 2003 c.32

- (d) paragraph 6 (Criminal Appeal (Northern Ireland) Act 1980 (c.47)),
  - (e) paragraph 7 (Wildlife and Countryside Act 1981 (c.69)),
  - (f) paragraph 8 (Mental Health Act 1983 (c.20)),
  - (g) paragraphs 10 to 19 (Repatriation of Prisoners Act 1984) to the extent not already in force,
  - (h) paragraph 21 (Criminal Justice Act 1987 (c.38)),
  - (i) paragraphs 22 and 23 (Criminal Justice Act 1988 (c.33)),
  - (j) paragraph 26 (Football Spectators Act 1989 (c.37)),
  - (k) paragraph 27 (Criminal Justice (International Co-operation) Act 1990 (c.5)),
  - (l) paragraph 28 (Broadcasting Act 1990 (c.42)),
  - (m) paragraph 30 (Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)),
  - (n) paragraph 32 and, to the extent not already in force, paragraph 33 (Crime (Sentences) Act 1997 (c.43)),
  - (o) paragraphs 41, 44, 45(b), 46, 47 and 48 (Powers of Criminal Courts (Sentencing) Act 2000 (c.6)),
  - (p) paragraph 51 (Life Sentences (Northern Ireland) Order 2001(S.I. 2001/2564(N.I.2))),
  - (q) paragraph 52 (Crime (International Co-operation) Act 2000 (c.32)),
  - (r) paragraphs 53, 56(1), (2)(a) and (4) and 57 (Sexual Offences Act 2003 (c.42)),
  - (s) paragraph 78 (Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950)),
  - (t) paragraph 80 (Natural Environment and Rural Communities Act 2006 (c.16)),
  - (u) paragraph 81 (Police and Justice Act 2006 (c.48)).
- 49.** In Schedule 27 (Transitory, transitional and saving provisions), paragraphs 6, 10 to 12, 13(2), 14 to 17, 21, 27, 30 and 38.
- 50.**—(1) The following entries in Schedule 28 (repeals).
- (2) In Part 2 (Sentencing), the entries relating to the—
    - (a) Criminal Justice Act 1991 in sections 45, 46(1) and 50(2),
    - (b) Crime (Sentences) Act 1997 (c.43),
    - (c) 2003 Act, in sections 153(1), 224(3), 227(1)(a), 228, 229, 234, 247, 254(3) to (5), 256 and 305(4)(e), Schedules 16 and 17 and in paragraph 4(5)(a) of Schedule 31,
    - (d) Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950).
  - (3) In Part 3 (Appeals), the entries relating to the—
    - (a) 1968 Act,
    - (b) Judicature (Northern Ireland) Act 1978 (c.23),
    - (c) Criminal Appeal (Northern Ireland) Act 1980 (c.47),
    - (d) Mental Health Act 1983 (c.20),
    - (e) Criminal Justice Act 1988 (c.33),
    - (f) Powers of Criminal Courts (Sentencing) Act 2000 (c.6).
  - (4) In Part 4 (Other criminal justice provisions), the entries relating to the—
    - (a) Magistrates' Courts Act 1980 (c.43), section 13(5),
    - (b) Prosecution of Offences Act 1985 (c.23),

- (c) Access to Justice Act 1999 (c.22),
  - (d) Sexual Offences Act 2003,
  - (e) 2003 Act, section 23A(7) to (9).
- (5) In Part 5 (Criminal law), the entry relating to the Sexual Offences Act 2003.
- (6) All the entries in Part 6 (International co-operation in relation to criminal justice matters).
- (7) In Part 8 (Policing), the entries relating to the—
- (a) Police Act 1996 (c.16) in section 54(2),
  - (b) Police and Justice Act 2006 (c.48) in section 49(1) and in Schedule 1.

## SCHEDULE 2

Article 2(3)

### Transitional and Saving Provisions

#### **Restrictions on imposing community order**

1. The coming into force of section 11(1) of the 2008 Act is of no effect in relation to any person who is sentenced to a community order within the meaning of section 177(8) of the 2003 Act before 14 July 2008.

#### **Dangerous offenders**

2. The coming into force of sections 13 to 18 and 25 of, Schedule 5 and paragraph 71 of Schedule 26 to, the 2008 Act (and the related entries in Schedule 28 (Repeals) to that Act) is of no effect in relation to any person sentenced under any of sections 225(9), 226(10), 227(11) or 228(12) of the 2003 Act before 14 July 2008.

#### **Recall**

3. The coming into force of sections 29 and 30 of the 2008 Act is of no effect in relation to any person who is recalled under section 254(1) of the 2003 Act before 14 July 2008.

#### **Appeals in criminal cases**

4.—(1) The amendments made by paragraph 6 of Schedule 8 to the 2008 Act (Powers of Court to substitute different sentence) and the related entry in Schedule 28 to that Act apply in relation to an appeal under Part 1 of the 1968 Act if the proceedings on appeal begin on or after 14 July 2008.

- (2) For the purposes of this paragraph, the proceedings on appeal begin—
- (a) if the Criminal Cases Review Commission refer the case to the Court of Appeal under Part 2 of the Criminal Appeal Act 1995(13), on the date the reference is made;
  - (b) in any other case, on the date the notice of appeal or, as the case may be, notice of application for leave to appeal, is served on the Crown Court officer.

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(8) Section 177 was commenced for certain purposes by S.I. 2005/950 as amended by S.I. 2007/391.

(9) Section 225 has been modified by S.I. 2005/643 and is amended by section 13 of the 2008 Act.

(10) Section 226 is amended by section 14 of the 2008 Act.

(11) Section 227 has been modified by S.I. 2005/643 and is amended by section 15 of the 2008 Act.

(12) Section 228 is amended by section 16 of the 2008 Act.

(13) 1995 c.35

(3) In this paragraph, the reference to service on the Crown Court officer is to be read in accordance with the Criminal Procedure Rules 2005(14).

5. The amendments made by paragraphs 7 to 9 of Schedule 8 to the 2008 Act (Interim hospital orders) and the related entries in Schedule 28 to that Act apply in relation to an interim hospital order made by the Court of Appeal under Part 1 of the 1968 Act on or after 14 July 2008.

6. The amendment made by paragraph 12 of Schedule 8 to the 2008 Act (Appeals against procedural directions) and the related entry in Schedule 28 to that Act apply in relation to a procedural direction given by a single judge under Part 1 of the 1968 Act on or after 14 July 2008 or, as the case may be, to a refusal by a single judge on or after that date to give such a procedural direction.

7. The amendments made by paragraph 13 of Schedule 8 to the 2008 Act (Detention of defendant pending appeal to Supreme Court) apply where an appeal lies to the Supreme Court under Part 2 of the 1968 Act if the date of the decision of the Court of Appeal from which the appeal lies is on or after 14 July 2008.

8.—(1) The amendments made by paragraph 18 of Schedule 8 to the 2008 Act (Powers of court to substitute different sentence) apply in relation to an appeal under Part 1 of the 1980 Act if the proceedings on appeal begin on or after 14 July 2008.

(2) For the purposes of this paragraph, the proceedings on appeal begin—

- (a) if the appellant appeals with leave of the Court of Appeal, on the date the application for leave is served on the proper officer,
- (b) if leave to appeal is not required, on the date the notice of appeal is served on the proper officer,
- (c) if the judge of the court of trial grants a certificate that the case is fit for appeal—
  - (i) on the date the application for the certificate is made to the court of trial or lodged with the proper officer, or
  - (ii) in a case where a certificate is granted without any application being made, on the date the certificate is granted, or
- (d) if the Criminal Cases Review Commission refer the case to the Court of Appeal under Part 2 of the Criminal Appeal Act 1995, on the date the reference is made.

(3) In this paragraph, “proper officer” has the same meaning as in the Criminal Appeal (Northern Ireland) Rules 1968(15).

9. The amendments made by paragraphs 19 to 21 of Schedule 8 to the 2008 Act (Interim hospital orders) and the related entry in Schedule 28 to that Act apply in relation to an interim hospital order made by the Court of Appeal on or after 14 July 2008.

10. The amendments made by paragraph 24 of Schedule 8 to the 2008 Act (Detention of defendant pending appeal to Supreme Court) apply where an appeal lies to the Supreme Court under Part 2 of the 1980 Act if the date of the decision of the Court of Appeal from which the appeal lies is on or after 14 July 2008.

11. The amendments made by paragraph 26 of Schedule 8 to the 2008 Act (Detention of defendant pending appeal from High Court to Supreme Court) apply where an appeal lies to the Supreme Court under section 1 of the Administration of Justice Act 1960(16) if the date of the decision of the court below from which the appeal lies is on or after 14 July 2008.

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(14) S.I. 2005/384; relevant amending instruments are S.I. 2007/699 and 2007/2317.

(15) S.R. & O. (N.I.) 1968/218

(16) 1960 c.65. Section 1 was repealed as it applies to Northern Ireland by Schedule 7 to the Judicature (Northern Ireland) Act 1978. Section 1 was amended by Schedule 7 to the 1968 Act and by section 63(1) of the Access to Justice Act 1999. Section

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**12.** The amendments made by paragraph 27 of Schedule 8 to the 2008 Act (Variation of sentences by Crown Court) and the related entries in Schedule 28 to that Act apply in relation to a sentence imposed, or other order made, by the Crown Court on or after 14 July 2008.

**13.** The amendments made by paragraph 28 of Schedule 8 to the 2008 Act (Variation of sentences by Crown Court) and the related entry in Schedule 28 to that Act apply in relation to a sentence imposed, or other order made, by the Crown Court on or after 14 July 2008.

**14.** References to the Supreme Court in paragraphs 7, 10 and 11 of this Schedule are to be read as references to the House of Lords until the coming into force of the following provisions of Schedule 9 to the Constitutional Reform Act 2005(17), namely—

- (a) as regards paragraph 7, of paragraph 16(6) of that Schedule,
- (b) as regards paragraph 10, of paragraph 33(6) of that Schedule, and
- (c) as regards paragraph 11, of paragraph 13(5) of that Schedule.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force the provisions of the Criminal Justice and Immigration Act 2008 (c.4) set out in Schedule 1 on 14 July 2008, and one other minor amendment on 15 July 2008. Commencement in the case of the provisions falling under article 2(1) and Schedule 1 is subject to the transitional and saving provisions contained in Schedule 2 to the Order.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 26 (partially)	9 June 2008	2008/1466
Section 148(1) and (2) for certain purposes	9 June 2008	2008/1466
Schedule 26 (partially)	9 June 2008	2008/1466
Schedule 27 (partially)	9 June 2008	2008/1466

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<sup>(17)</sup> 2005 c.4  
1 will be further amended and repealed in part by section 40(4) of, paragraph 13(1) and (2) of Schedule 9 to, and Schedule 18 to the Constitutional Reform Act 2005 (c.4), from a date to be appointed.