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STATUTORY INSTRUMENTS

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**2019 No. 780**

**The Criminal Justice (Amendment  
etc.) (EU Exit) Regulations 2019**

**PART 6**

**TAKING ACCOUNT OF CONVICTIONS**

**CHAPTER 1**

Amendments: legislation that extends to England and Wales only

**Amendment of the Prevention of Crime Act 1953**

**21.**—(1) Section 1ZA of the Prevention of Crime Act 1953 (offence under section 1: previous relevant convictions)(1) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (b), for “Scotland, Northern Ireland or a member State other than the United Kingdom” substitute “Scotland or Northern Ireland”;
- (b) at the end of paragraph (c), insert “and”;
- (c) omit paragraph (e) and the “and” preceding it.

(3) In subsection (2)—

- (a) in the definition of “civilian offence”, omit paragraph (b) and the “or” preceding it;
- (b) in paragraph (b) of the definition of “conviction”, omit “and a member State service offence”;
- (c) omit the definition of “member State service offence”.

**Amendment of the Magistrates’ Courts Act 1980**

**22.**—(1) Section 19 of the Magistrates’ Courts Act 1980 (decision as to allocation)(2) is amended as follows.

(2) In subsection (5)—

- (a) at the end of paragraph (a), insert “or”;
- (b) omit paragraph (aa).

(3) Omit subsection (5A).

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(1) 1953 c. 14 (1 & 2 Eliz, 2 c. 14); section 1ZA was inserted by section 28(3) of the Criminal Justice and Courts Act 2015 (c. 2).  
(2) 1980 c. 43; section 19 was amended by paragraph 5 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), and paragraph 4 of Schedule 17, paragraph 80 of Schedule 21, and Part 5 of Schedule 23 to the Coroners and Justice Act 2009 (c. 25).

**Amendment of the Criminal Justice and Public Order Act 1994**

**23.**—(1) 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)(3) is amended as follows.

- (2) In subsection (2), in the opening words, for “subsection (3)” substitute “subsection (3A)”.
- (3) Omit subsection (3).
- (4) Omit subsection (3B).
- (5) In subsection (5), omit the definition of “relevant foreign offence”.
- (6) Omit subsection (5A).

**Amendment of the Crime and Disorder Act 1998**

**24.**—(1) Paragraph 9 of Schedule 3 to the Crime and Disorder Act 1998 (procedure where persons are sent for trial under section 51 of the Crime and Disorder Act 1998)(4) is amended as follows.

- (2) In sub-paragraph (5)—
  - (a) at the end of paragraph (a), insert “or”;
  - (b) omit paragraph (aa).
- (3) Omit sub-paragraph (5A).

**Amendment of the Powers of Criminal Courts (Sentencing) Act 2000**

**25.**—(1) The Powers of Criminal Courts (Sentencing) Act 2000(5) is amended as follows.

- (2) In section 17(1)(b) (referral conditions for young offenders)(6), omit sub-paragraph (ii) and the “or” preceding it.
- (3) In section 110 (minimum of seven years for third class A drug trafficking offence)(7)—
  - (a) in subsection (1)(b), for “2 relevant drug convictions; and” substitute “been convicted in any part of the United Kingdom of two other class A drug trafficking offences; and”;
  - (b) omit subsection (2A).
- (4) In section 111(2A) (minimum of three years for third domestic burglary)(8)—
  - (a) in paragraph (a)(ii), omit “or any other member State”;
  - (b) in paragraph (b)(ii), for “any other case” substitute “respect of a conviction in any other part of the United Kingdom”.
- (5) In section 113 (certificates of convictions for purposes of Chapter III)(9)—

- (3) [1994 c. 33](#); section 25(3), (3A) and (3B) were inserted by paragraph 3(2) of Schedule 17 to the Coroners and Justice Act [2009 \(c. 25\)](#); section 25(5) was amended by paragraph 93(2) of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act [1995 \(c. 40\)](#), paragraph 160 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act [2000 \(c. 6\)](#), paragraph 67(b) of Schedule 32 and Part 7 of Schedule 37 to the Criminal Justice Act [2003 \(c. 44\)](#), and paragraph 3(3) of Schedule 17 and Part 5 of Schedule 23 to the Coroners and Justice Act 2009; section 25(5A) was inserted by paragraph 3(4) of Schedule 17 to the Coroners and Justice Act 2009.
- (4) [1998 c. 37](#); paragraph 9(5) of Schedule 3 was amended by paragraph 20(9)(b) of Schedule 3 to the Criminal Justice Act [2003 \(c. 44\)](#), paragraph 155 of Schedule 16 to the Armed Forces Act 2006 (c. 52), paragraph 5(2) of Schedule 17 and Part 5 of Schedule 23 to the Coroners and Justice Act [2009 \(c. 25\)](#); paragraph 9(5A) was inserted by paragraph 5(3) of Schedule 17 to the Coroners and Justice Act 2009.
- (5) [2000 c. 6](#).
- (6) Amended by paragraph 12(2) of Schedule 17 to the Coroners and Justice Act [2009 \(c. 25\)](#).
- (7) Section 110(1)(b) was amended by paragraph 10(2)(a) of Schedule 17 to the Coroners and Justice Act [2009 \(c. 25\)](#) and section 110(2A) was inserted by paragraph 10(2)(b) of Schedule 17 to that Act.
- (8) Section 111(2A) was inserted by paragraph 10(3)(b) of Schedule 17 to the Coroners and Justice Act [2009 \(c. 25\)](#).
- (9) Section 113(1A), (2A) and (3) was amended by paragraph 10(4) of Schedule 17 to the Coroners and Justice Act [2009 \(c. 25\)](#). Section 113(3) was also amended by Part 5 of Schedule 23 to that Act.

- (a) for subsection (1A) substitute—
  - “(1A) Where—
    - (a) a person is convicted in any part of the United Kingdom other than England and Wales of—
      - (i) a class A drug trafficking offence, or
      - (ii) a corresponding domestic burglary offence,
    - (b) the court by or before which the person is convicted states in open court that the person has been convicted of such an offence on that date, and
    - (c) that court certifies, by way of a certificate signed by the proper officer of the court, the fact that the person has been convicted of such an offence on that date, the certificate is evidence, for the purposes of the relevant section of this Chapter, that the person was convicted of such an offence on that date.”;
- (b) for subsection (2A) substitute—
  - “(2A) Where—
    - (a) a person is convicted in any part of the United Kingdom other than England and Wales of—
      - (i) a class A drug trafficking offence, or
      - (ii) a corresponding domestic burglary offence,
    - (b) the court by or before which the person is convicted states in open court that the offence was committed on a particular day or over, or at some time during, a particular period, and
    - (c) that court certifies, by way of a certificate signed by the proper officer of the court, that the offence was committed on a particular day or over, or at some time during, a particular period, the certificate is evidence, for the purposes of the relevant section of this Chapter, that the offence was committed on a particular day or over, or at some time during, that period.”;
  - (c) in subsection (3), omit the definition of “corresponding drug trafficking offence”.
- (6) In section 114 (offences under service law)(10)—
  - (a) omit subsection (1A);
  - (b) omit subsection (1B);
  - (c) omit subsection (4).

### **Amendment of the Criminal Justice Act 2003**

**26.**—(1) The Criminal Justice Act 2003(11) is amended as follows.

(2) In section 143 (determining the seriousness of an offence)(12)—

- (a) in subsection (4)—
  - (i) at the end of paragraph (a), insert “or”;
  - (ii) omit paragraph (aa);
  - (iii) omit paragraph (c) and the “or” preceding it;

(10) Section 114(1A), (1B) and (4) were amended by paragraph 10(5) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).

(11) 2003 c. 44.

(12) Section 143(4) was amended by paragraph 216 of Schedule 16 to the Armed Forces Act 2006 (c. 52) and paragraph 6(2) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25); section 143(5) was amended by paragraph 6(3) of Schedule 17 to that Act; section 143(6) was inserted by paragraph 6(3) of Schedule 17 to that Act.

- (b) in subsection (5)—
  - (i) in paragraph (a), for the words from “both” to “State” substitute “the United Kingdom”;
  - (ii) omit paragraph (b) and the “or” preceding it;
- (c) omit subsection (6).
- (3) In section 224A(10) (life sentence for second listed offence)(**13**)—
  - (a) in paragraph (b) of the definition of “extended sentence”—
    - (i) for “Scotland,” substitute “Scotland or”, and
    - (ii) omit “or a member State (other than the United Kingdom)”;
  - (b) in paragraph (b) of the definition of “life sentence”—
    - (i) for “Scotland,” substitute “Scotland or”, and
    - (ii) omit “or a member State (other than the United Kingdom)”.
- (4) In Part 4 of Schedule 15B (offences under the law of Scotland, Northern Ireland or a member State other than the United Kingdom listed for the purposes of sections 224A(4) and 226(A))(**14**)—
  - (a) in the heading—
    - (i) for “SCOTLAND,” substitute “SCOTLAND OR”, and
    - (ii) omit “OR A MEMBER STATE OTHER THAN THE UNITED KINGDOM”;
  - (b) in paragraph 49(**15**)—
    - (i) for “A civilian offence” substitute “An offence”;
    - (ii) for “Scotland, Northern Ireland or a member State other than the United Kingdom” substitute “Scotland or Northern Ireland”;
  - (c) omit paragraph 49A(**16**);
  - (d) omit paragraph 49B(**17**).

### **Amendment of the Coroners and Justice Act 2009**

**27.** In Schedule 17 to the Coroners and Justice Act 2009 (treatment of convictions in other member States etc)(**18**), omit paragraph 8 (availability of community orders).

## **CHAPTER 2**

Amendments: legislation that extends to Northern Ireland only

### **Amendment of the Police and Criminal Evidence (Northern Ireland) Order 1989**

**28.—**(1) The Police and Criminal Evidence (Northern Ireland) Order 1989(**19**) is amended as follows.

- (2) In Article 71 (proof of convictions and acquittals)(**20**)—
  - (a) omit paragraph (1A);

(13) Section 224A was inserted by section 122(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(14) Schedule 15B was inserted by Schedule 18 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(15) Amended by section 3(7) of the Criminal Justice and Courts Act 2015 (c. 2).

(16) Paragraph 49A was inserted by section 3(8) of the Criminal Justice and Courts Act 2015 (c. 2).

(17) Paragraph 49B was inserted by section 3(8) of the Criminal Justice and Courts Act 2015 (c. 2).

(18) 2009 c. 25.

(19) S.I. 1989/1341 (N.I. 12).

(20) Article 71(1A) and (2)(c) were inserted by paragraph 16 of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).

- (b) omit paragraph (2)(c) and the “and” preceding it.
- (3) In Article 72 (conviction as evidence of commission of offence)(**21**)—
  - (a) in paragraph (1), omit “or any other member State”;
  - (b) in paragraph (2), omit “or any other member State”;
  - (c) in paragraph (3)(a), omit “or any other member State”.
- (4) In Article 73(1) (provisions supplementary to Article 72)(**22**), for sub-paragraph (b) substitute—
  - “(b) the contents of the complaint, indictment or charge-sheet on which the person in question was convicted,”.

### CHAPTER 3

Amendments: legislation that extends to England and Wales and Northern Ireland

#### Amendment of the Police and Criminal Evidence Act 1984

- 29.**—(1) The Police and Criminal Evidence Act 1984(**23**) is amended as follows.
- (2) In section 73(**24**) (proof of convictions and acquittals)—
    - (a) in subsection (1), omit “or any other member State”;
    - (b) omit subsection (2)(c) and the “and” preceding it;
    - (c) in subsection (3)—
      - (i) in paragraph (b), omit “in the United Kingdom”;
      - (ii) omit paragraph (c) and the “and” preceding it.
  - (3) In section 74 (conviction as evidence of commission of offence)(**25**)—
    - (a) in subsection (1), omit “or any other member State”;
    - (b) in subsection (2), omit “or any other member State”;
    - (c) in subsection (3)(a), omit “or any other member State”.
  - (4) In section 75(1) (provisions supplementary to section 74)(**26**), for paragraph (b) substitute—
    - “(b) the contents of the information, complaint, indictment or charge-sheet on which the person in question was convicted,”.

#### Amendment of the Criminal Justice Act 1988

- 30.**—(1) Section 139AZA of the Criminal Justice Act 1988 (offences under sections 139 and 139A: previous relevant convictions)(**27**) is amended as follows.
- (2) In subsection (1)—

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(21) Article 72(1) was amended by paragraph 17 of Schedule 17 to the Coroners and Justice Act 2009 (c. 25) and S.I. 2004/1501 (N.I. 10), and Article 72(2) and (3)(a) was amended by paragraph 17 of Schedule 17 to the Coroners and Justice Act 2009.

(22) Amended by paragraph 18 of Schedule 17 to the Coroners and Justice Act 2009 (c. 25).

(23) 1984 c. 60.

(24) Section 73(1) was amended by paragraph 13(2) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25) (“the 2009 Act”); section 73(2) was amended by paragraph 128(2) of Schedule 13 to the Access to Justice Act 1999 (c. 22) and paragraph 13(3) of Schedule 17 to the 2009 Act; section 73(3) was amended by paragraph 285 of Schedule 8 to the Courts Act 2003 (c. 39) and paragraph 13(4) of Schedule 17 to the 2009 Act.

(25) Section 74(1) was amended by paragraph 85(2) of Schedule 36 to the Criminal Justice Act 2003 (c. 44) and paragraph 14(2) of Schedule 17 to the Coroners and Justice Act 2009 (c. 25) (“the 2009 Act”); section 74(2) and 74(3)(a) was amended by paragraph 14 of Schedule 17 to the 2009 Act.

(26) Amended by paragraph 15 of Schedule 17 to the Coroners and Justice Act 2009 (c.25).

(27) 1988 c. 33. Section 139AZA was inserted by section 28(7) of the Criminal Justice and Courts Act 2015 (c. 2).

- (a) in paragraph (b), for “Scotland, Northern Ireland or a member State other than the United Kingdom” substitute “Scotland or Northern Ireland”;
  - (b) at the end of paragraph (c), insert “and”;
  - (c) omit paragraph (e) and the “and” preceding it.
- (3) In subsection (2)—
- (a) for the definition of “civilian offence” substitute—
    - ““civilian offence” means an offence other than an offence under an enactment mentioned in subsection (1)(c) or (d);”;
  - (b) in paragraph (b) of the definition of “conviction”, omit “and a member State service offence”;
  - (c) omit the definition of “member State service offence”.

## CHAPTER 4

### Transitional provision

#### Transitional provision

- 31.**—(1) This Part does not apply in relation to proceedings instituted before exit day.
- (2) For the purposes of paragraph (1) as it extends to England and Wales—
- (a) proceedings other than proceedings on appeal are instituted when proceedings are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985<sup>(28)</sup>, in accordance with section 15(2) of that Act, and
  - (b) proceedings on appeal are instituted when the notice of appeal is given or the reference under section 9 or 11 of the Criminal Appeal Act 1995<sup>(29)</sup> is made.
- (3) For the purposes of paragraph (1) as it extends to Northern Ireland—
- (a) proceedings other than proceedings on appeal are instituted when proceedings are instituted for the purposes of Part 2 of the Justice (Northern Ireland) Act 2002<sup>(30)</sup>, in accordance with section 44(1) of that Act, and
  - (b) proceedings on appeal are instituted when the notice of appeal is given or the reference under section 10 or 12 of the Criminal Appeal Act 1995<sup>(31)</sup> is made.

(28) 1985 c. 23. Section 15(2) was amended by paragraph 10(3) of Schedule 36 to the Criminal Justice Act 2003 (c. 44), paragraph 35 of Schedule 17 to the Crime and Courts Act 2013 (c. 22) and paragraph 7(3) of Schedule 11 to the Criminal Justice and Courts Act 2015 (c. 2).

(29) 1995 c. 35. Section 9 was amended by paragraph 31 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c. 28).

(30) 2002 c. 26.

(31) Section 10 was amended by paragraph 32 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2003 (c. 28).