

SCHEDULES

SCHEDULE 1

Section 49

CONSEQUENTIAL AMENDMENTS RELATING TO MINIMUM SENTENCES

Magistrates' Courts Act 1980 (c. 43)

- 1 In section 24(1B) of the Magistrates' Courts Act 1980 (exceptions to summary trial for indictable offences of persons aged under 18), omit the “or” at the end of paragraph (a) and, at the end of paragraph (b), insert “or
- (c) section 29(3) of the Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon) would apply if he were convicted of the offence.”

Mental Health Act 1983 (c. 20)

- 2 In section 37(1A) of the Mental Health Act 1983 (provisions that do not prevent a court from ordering hospital admission), omit the “or” at the end of paragraph (b) and, at the end of paragraph (c), insert “or
- (d) under section 29(4) or (6) of the Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon),”.

Criminal Justice Act 1988 (c. 33)

- 3 (1) The Criminal Justice Act 1988 is amended as follows.
- (2) In section 36 (review of failure to impose mandatory sentence), in subsection (2)(b) omit the “or” at the end of sub-paragraph (ii) and, at the end of sub-paragraph (iii), insert “or
- (iv) under section 29(4) or (6) of the Violent Crime Reduction Act 2006.”
- (3) In subsection (9) of that section, after paragraph (a) insert—
- “(aa) the reference to section 51A(2) of the Firearms Act 1968 shall be construed as a reference to Article 70(2) of the Firearms (Northern Ireland) Order 2004;
- (ab) the reference to section 29(4) or (6) of the Violent Crime Reduction Act 2006 shall be construed as a reference to paragraph 2(4) or (5) of Schedule 2 to that Act; and”.

Criminal Procedure (Scotland) Act 1995 (c. 46)

- 4 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.

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- (2) In section 49(3) (reference or remit to children’s hearing), in the exception, for the words from “the circumstances” to “1968” substitute “section 51A of the Firearms Act 1968 or section 29 of the Violent Crime Reduction Act 2006 applies”.
- (3) In section 207 (detention of young offenders)—
- (a) after subsection (3) insert—
- “(3A) Subsections (2) and (3) above are subject to—
- (a) section 51A(2) of the Firearms Act 1968 (minimum sentences for certain firearms offences); and
- (b) section 29(8) of the Violent Crime Reduction Act 2006 (minimum sentence of detention for certain offences relating to dangerous weapons).”;
- (b) after subsection (4A) insert—
- “(4B) Subsections (4) and (4A) above apply to the forming of an opinion under the enactments mentioned in subsection (3A) above as they apply to the forming of an opinion under subsection (3) above.”
- (4) In section 208 (detention of children convicted on indictment), for subsection (2) substitute—
- “(2) Subsection (1) above is subject to—
- (a) section 51A(2) of the Firearms Act 1968 (minimum sentences for certain firearms offences); and
- (b) section 29(9) of the Violent Crime Reduction Act 2006 (minimum sentence of detention for certain offences relating to dangerous weapons).”

Crime and Disorder Act 1998 (c. 37)

- 5 In section 51A(12) of the Crime and Disorder Act 1998 (cases in which persons aged under 18 must be sent for trial to the Crown Court), omit the “or” at the end of paragraph (a) and, at the end of paragraph (b), insert “or
- (c) section 29(3) of Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon) would apply if he were convicted of the offence.”

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

- 6 In each of —
- (a) section 12(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (power to discharge defendant except in specified cases),
- (b) section 130(2) of that Act (cases in which compensation orders may be made only in addition to, and not instead of, dealing with a convicted person in other ways), and
- (c) section 146(2) of that Act (cases in which a driving disqualification may be imposed only in addition to, and not instead of, dealing with a convicted person in other ways),
- for “or section 225, 226, 227 or 228 of the Criminal Justice Act 2003” substitute “, section 225, 226, 227 or 228 of the Criminal Justice Act 2003 or section 29(4) or (6) of the Violent Crime Reduction Act 2006”.

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- 7 (1) In section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (detention of persons under 18), in subsection (1A)(b) after “Act and” insert “for the purposes of subsection (3) of that section”.
- (2) After subsection (1A) of that section insert—
- “(1B) Subsection (3) below also applies where—
- (a) a person aged under 18 is convicted on indictment of an offence under the Firearms Act 1968 that is listed in section 51A(1A)(b), (e) or (f) of that Act and was committed in respect of a firearm or ammunition specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or section 5(1A)(a) of that Act;
 - (b) the offence was committed after the commencement of section 30 of the Violent Crime Reduction Act 2006 and for the purposes of section 51A(3) of the Firearms Act 1968 at a time when he was aged 16 or over; and
 - (c) the court is of the opinion mentioned in section 51A(2) of the Firearms Act 1968.
- (1C) Subsection (3) below also applies where—
- (a) a person aged under 18 is convicted of an offence under section 28 of the Violent Crime Reduction Act 2006 (using someone to mind a weapon);
 - (b) section 29(3) of that Act applies (minimum sentences in certain cases); and
 - (c) the court is of the opinion mentioned in section 29(6) of that Act (exceptional circumstances which justify not imposing the minimum sentence).”

(3) In subsection (5) of that section (power to impose detention where minimum sentence provisions apply), for the words from “subsection (2)” to “that term” substitute—

 - “(a) subsection (2) of section 51A of the Firearms Act 1968, or
 - (b) subsection (6) of section 29 of the Violent Crime Reduction Act 2006,

requires the imposition of a sentence of detention under this section for a term of at least the term provided for in that section, the court shall sentence the offender to be detained for such period, of at least the term so provided for”.

8 In section 164(3) of the Powers of Criminal Courts (Sentencing) Act 2000 (interpretation of references to certain sentences), omit the “or” at the end of paragraph (b) and, at the end of paragraph (c), insert “or

 - (d) under section 29(4) or (6) of the Violent Crime Reduction Act 2006.”.

Criminal Justice Act 2003 (c. 44)

- 9 (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 142(2)(c) (cases in which courts not required to have regard to purposes of sentencing), after “custodial sentences” insert “, under section 29(4) or (6) of the Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon)”.

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- (3) In section 150 (cases in which a community order or youth community order may not be imposed), omit the “or” at the end of paragraph (c) and after that paragraph insert—
- “(ca) falls to be imposed under section 29(4) or (6) of the Violent Crime Reduction Act 2006 (required custodial sentence in certain cases of using someone to mind a weapon), or”.
- (4) In section 152(1) (cases in which restrictions on imposing custodial sentences do not apply), for “110(2) or 111(2) of the Sentencing Act” substitute “section 110(2) or 111(2) of the Sentencing Act, under section 29(4) or (6) of the Violent Crime Reduction Act 2006”.
- (5) In section 153(2) (which specifies provisions to which the rule about the length of a custodial sentence is subject), after “Sentencing Act” insert “, section 29(4) or (6) of the Violent Crime Reduction Act 2006”.
- (6) In section 174(3)(b) (cases in which there is no obligation to state the reasons for a custodial sentence), for “or under subsection (2) of section 110 or 111 of the Sentencing Act” substitute “, under subsection (2) of section 110 or 111 of the Sentencing Act or under section 29(4) or (6) of the Violent Crime Reduction Act 2006”.
- (7) In section 291(1), after paragraph (a) (power to confine the application of section 51A of the Firearms Act 1968 to persons aged 18 or over) insert—
- “(aa) amend section 29(3)(a) of the Violent Crime Reduction Act 2006 by substituting for the word ‘16’ the word ‘18’,”.
- (8) In section 305(4) (interpretation of references to certain sentences), after paragraph (b) insert—
- “(ba) a sentence falls to be imposed under section 29(4) or (6) of the Violent Crime Reduction Act 2006 if it is required by that provision and the court is not of the opinion there mentioned,”.

SCHEDULE 2

Section 51

WEAPONS ETC.: CORRESPONDING PROVISIONS FOR NORTHERN IRELAND

Using someone to mind a weapon

- 1 (1) A person is guilty of an offence if—
- (a) he uses another to look after, hide or transport a dangerous weapon for him; and
- (b) he does so under arrangements or in circumstances that facilitate, or are intended to facilitate, the weapon’s being available to him for an unlawful purpose.
- (2) For the purposes of this paragraph the cases in which a dangerous weapon is to be regarded as available to a person for an unlawful purpose include any case where—
- (a) the weapon is available for him to take possession of it at a time and place; and

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- (b) his possession of the weapon at that time and place would constitute, or be likely to involve or to lead to, the commission by him of an offence.
- (3) In this paragraph “dangerous weapon” means—
 - (a) a firearm other than an exempt air gun or a component part of, or accessory to, an exempt air gun; or
 - (b) a weapon to which section 141 of the Criminal Justice Act 1988 (c. 33) or Article 54 of the Criminal Justice (Northern Ireland) Order 1996 (SI 1996/3160 (NI 24)) applies (specified offensive weapons, knives and bladed weapons).
- (4) In sub-paragraph (3)(a) “exempt air gun” means an air gun to which paragraph 9(1) of Schedule 1 of the Firearms Order applies (air guns for which firearm certificate not required).

Penalties etc. for offence under paragraph 1

- 2
- (1) This paragraph applies where a person (“the offender”) is guilty of an offence under paragraph 1.
 - (2) Where the dangerous weapon in respect of which the offence was committed is a weapon to which section 141 of the Criminal Justice Act 1988 (specified offensive weapons) or Article 54 of the Criminal Justice (Northern Ireland) Order 1996 (SI 1996/3160 (NI 24)) (knives and bladed weapons) applies, the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.
 - (3) Where—
 - (a) at the time of the offence, the offender was aged 16 or over, and
 - (b) the dangerous weapon in respect of which the offence was committed was a firearm mentioned in Article 3(1)(a) or 45(1)(a), (aa), (b), (c), (d), (e) or (g) or (2)(a) of the Firearms Order (firearms possession of which attracts a minimum sentence),the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine, or to both.
 - (4) On a conviction where—
 - (a) sub-paragraph (3) applies, and
 - (b) the offender is aged 21 or over at the time of conviction,the court must impose (with or without a fine) a term of imprisonment of not less than 5 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
 - (5) On a conviction where—
 - (a) sub-paragraph (3) applies, and
 - (b) the offender is aged under 21 at the time of conviction,the court must impose (with or without a fine) a term of detention in a young offenders centre of not less than 3 years, unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.

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- (6) In any case not mentioned in sub-paragraph (2) or (3), the offender shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both.
- (7) Where—
- (a) a court is considering for the purposes of sentencing the seriousness of an offence under paragraph 1, and
 - (b) at the time of the offence the offender was aged 18 or over and the person used to look after, hide or transport the weapon was not,
- the court must treat the fact that that person was under the age of 18 at that time as an aggravating factor (that is to say, a factor increasing the seriousness of the offence).
- (8) Where a court treats a person's age as an aggravating factor in accordance with sub-paragraph (7), it must state in open court that the offence was aggravated as mentioned in that sub-paragraph.
- (9) Where—
- (a) an offence under paragraph 1 of using another person for a particular purpose is found to have involved that other person's having possession of a weapon, or being able to make it available, over a period of two or more days, or at some time during a period of two or more days, and
 - (b) on any day in that period, an age requirement was satisfied,
- the question whether sub-paragraph (3) applies or (as the case may be) the question whether the offence was aggravated under this paragraph is to be determined as if the offence had been committed on that day.
- (10) In sub-paragraph (9) the reference to an age requirement is a reference to either of the following—
- (a) the requirement of sub-paragraph (3) that the offender was aged 16 or over at the time of the offence;
 - (b) the requirement of sub-paragraph (7) that the offender was aged 18 or over at that time and that the other person was not.
- (11) The Criminal Justice (Northern Ireland) Order 1996 ([SI 1996/3160 \(NI 24\)](#)) is amended as follows—
- (a) in Article 2(9), after “2004” insert “or paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006”;
 - (b) in each of —
 - (i) Article 4(1) (power to discharge defendant except in specified circumstances),
 - (ii) Article 10(1) (power to impose probation order except in specified cases),
 - (iii) Article 13(1) (power to impose community service order except in specified cases),
 - (iv) Article 15(1) (power to impose combination order except in specified circumstances),
 - (v) Article 19(1) (restrictions on custodial sentences except in specified circumstances),
 - (vi) Article 20(1) (length of custodial sentence), and
 - (vii) Article 24(1) (power to impose custody probation order except in specified circumstances),

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after “Article 70(2) of the Firearms (Northern Ireland) Order 2004” insert “or paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006”.

Minimum sentence for certain firearms offences

- 3 (1) The Firearms Order is amended as follows.
- (2) In Article 70 (which imposes minimum sentence requirements for certain offences involving the possession of various firearms), in paragraph (1)—
- (a) in sub-paragraph (a)(iii) for “and” substitute “or”;
 - (b) after sub-paragraph (a)(iii) insert—
 - “(iv) an offence under any of the provisions of this Order listed in paragraph (1A) in respect of a firearm or ammunition specified in Article 3(1)(a) or Article 45(1)(a), (aa), (b), (c), (d), (e) or (g) or (2)(a), and”.
- (3) After paragraph (1) of that Article insert—
- “(1A) The provisions are—
- (a) Article 58 (possession of a firearm with intent);
 - (b) Article 59 (use of firearm to resist arrest);
 - (c) Article 60 (carrying a firearm with criminal intent);
 - (d) Article 61(1) (carrying a firearm in a public place);
 - (e) Article 62(1) (trespassing in a building with a firearm).”
- (4) In Schedule 5 (prosecution and punishment of offences), in column 3, in paragraph (a) of the entries relating to Articles 61(1) and 62(1), after “Summary”, in each place, insert “except if the firearm is a firearm specified in Article 3(1)(a) or Article 45(1)(a), (aa), (b), (c), (d) or (e) or (2)(a)”.
- (5) This paragraph applies only to offences committed after the commencement of this paragraph.

Manufacture, import and sale of realistic imitation firearms

- 4 (1) A person is guilty of an offence if—
- (a) he manufactures a realistic imitation firearm;
 - (b) he modifies an imitation firearm so that it becomes a realistic imitation firearm;
 - (c) he sells a realistic imitation firearm; or
 - (d) he brings a realistic imitation firearm into Northern Ireland or causes one to be brought into Northern Ireland.
- (2) Sub-paragraph (1) has effect subject to the defences in paragraph 5.
- (3) The Secretary of State may by regulations—
- (a) provide for exceptions and exemptions from the offence under sub-paragraph (1); and
 - (b) provide for it to be a defence in proceedings for such an offence to show the matters specified or described in the regulations.
- (4) Regulations under sub-paragraph (3) may—

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- (a) frame any exception, exemption or defence by reference to an approval or consent given in accordance with the regulations;
 - (b) provide for approvals and consents to be given in relation to particular cases or in relation to such descriptions of case as may be specified or described in the regulations; and
 - (c) confer the function of giving approvals or consents on such persons specified or described in the regulations as the Secretary of State thinks fit.
- (5) The power of the Secretary of State to make regulations under sub-paragraph (3) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) That power includes power—
- (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
- (7) A realistic imitation firearm brought into Northern Ireland shall be liable to forfeiture under the customs and excise Acts.
- (8) In sub-paragraph (7) “the customs and excise Acts” has the meaning given by section 1 of the Customs and Excise Management Act 1979 (c. 2).
- (9) An offence under this paragraph shall be punishable, on summary conviction, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both.
- (10) In this paragraph “realistic imitation firearm” has the meaning given by paragraph 6.
- 5 (1) It shall be a defence for a person charged with an offence under paragraph 4 in respect of any conduct to show that the conduct was for the purpose only of making the imitation firearm in question available for one or more of the purposes specified in sub-paragraph (2).
- (2) Those purposes are—
- (a) the purposes of a museum or gallery;
 - (b) the purposes of theatrical performances and of rehearsals for such performances;
 - (c) the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 (c. 48)_see section 5B of that Act);
 - (d) the production of television programmes (within the meaning of the Communications Act 2003 (c. 21)_see section 405(1) of that Act);
 - (e) the organisation and holding of historical re-enactments organised and held by persons specified or described for the purposes of this paragraph by regulations made by the Secretary of State;
 - (f) the purposes of functions that a person has in his capacity as a person in the service of the Crown.
- (3) It shall also be a defence for a person charged with an offence under paragraph 4 in respect of conduct falling within sub-paragraph (1)(d) of that paragraph to show that the conduct—
- (a) was in the course of carrying on any trade or business; and

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- (b) was for the purpose of making the imitation firearm in question available to be modified in a way which would result in its ceasing to be a realistic imitation firearm.
 - (4) For the purposes of this paragraph a person shall be taken to have shown a matter specified in sub-paragraph (1) or (3) if—
 - (a) sufficient evidence of that matter is adduced to raise an issue with respect to it; and
 - (b) the contrary is not proved beyond a reasonable doubt.
 - (5) The power of the Secretary of State to make regulations under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
 - (6) That power includes power—
 - (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
 - (7) In this paragraph—
 - “historical re-enactment” means any presentation or other event held for the purpose of re-enacting an event from the past or of illustrating conduct from a particular time or period in the past;
 - “museum or gallery” includes any institution which—
 - (a) has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest; and
 - (b) gives the public access to it.
- 6 (1) In paragraphs 4 and 5 “realistic imitation firearm” means an imitation firearm which—
 - (a) has an appearance that is so realistic as to make it indistinguishable, for all practical purposes, from a real firearm; and
 - (b) is neither a de-activated firearm nor itself an antique.
- (2) For the purposes of this paragraph, an imitation firearm is not (except by virtue of sub-paragraph (3)(b)) to be regarded as distinguishable from a real firearm for any practical purpose if it could be so distinguished only—
 - (a) by an expert;
 - (b) on a close examination; or
 - (c) as a result of an attempt to load or to fire it.
 - (3) In determining for the purposes of this paragraph whether an imitation firearm is distinguishable from a real firearm—
 - (a) the matters that must be taken into account include any differences between the size, shape and principal colour of the imitation firearm and the size, shape and colour in which the real firearm is manufactured; and
 - (b) the imitation is to be regarded as distinguishable if its size, shape or principal colour is unrealistic for a real firearm.
 - (4) The Secretary of State may by regulations provide that, for the purposes of sub-paragraph (3)(b)—

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- (a) the size of an imitation firearm is to be regarded as unrealistic for a real firearm only if the imitation firearm has dimensions that are less than the dimensions specified in the regulations; and
 - (b) a colour is to be regarded as unrealistic for a real firearm only if it is a colour specified in the regulations.
- (5) The power of the Secretary of State to make regulations under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) That power includes power—
- (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.
- (7) In this paragraph—
- “colour” is to be construed in accordance with sub-paragraph (9);
 - “de-activated firearm” means an imitation firearm that consists in something which—
 - (a) was a firearm; but
 - (b) has been so rendered incapable of discharging a shot, bullet or other missile as no longer to be a firearm;
 - “real firearm” means—
 - (a) a firearm of an actual make or model of modern firearm (whether existing or discontinued); or
 - (b) something falling within a description which could be used for identifying, by reference to their appearance, the firearms falling within a category of actual modern firearms which, even though they include firearms of different makes or models (whether existing or discontinued) or both, all have the same or a similar appearance.
- (8) In sub-paragraph (7) “modern firearm” means any firearm other than one the appearance of which would tend to identify it as having a design and mechanism of a sort first dating from before the year 1870.
- (9) References in this paragraph, in relation to an imitation firearm or a real firearm, to its colour include references to its being made of transparent material.
- (10) Article 2(7) of the Firearms Order (under which firearms are deemed to be deactivated if they are appropriately marked) applies for the purposes of this paragraph as it applies for the purposes of that Order.

Specification for imitation firearms

- 7 (1) The Secretary of State may by regulations make provision requiring imitation firearms to conform to specifications which are—
- (a) set out in the regulations; or
 - (b) approved by such persons and in such manner as may be so set out.
- (2) A person is guilty of an offence if—

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- (a) he manufactures an imitation firearm which does not conform to the specifications required of it by regulations under this paragraph;
 - (b) he modifies an imitation firearm so that it ceases to conform to the specifications so required of it;
 - (c) he modifies a firearm to create an imitation firearm that does not conform to the specifications so required of it; or
 - (d) he brings an imitation firearm which does not conform to the specifications so required of it into Northern Ireland or causes such an imitation firearm to be brought into Northern Ireland.
- (3) An offence under this paragraph shall be punishable, on summary conviction, with imprisonment for a term not exceeding 6 months or with a fine not exceeding level 5 on the standard scale, or with both.
- (4) Regulations under this paragraph may provide that, in proceedings for an offence under this paragraph, it is to be presumed, unless the contrary is proved, that an imitation firearm conforms to the required specification if it, or the description of imitation firearms to which it belongs, has been certified as so conforming by a person who is—
- (a) specified in the regulations; or
 - (b) determined for the purpose in accordance with provisions contained in the regulations.
- (5) An imitation firearm brought into Northern Ireland which does not conform to the specifications required of it by regulations under this paragraph shall be liable to forfeiture under the customs and excise Acts.
- (6) In sub-paragraph (5) “the customs and excise Acts” has the meaning given by section 1 of the Customs and Excise Management Act 1979 (c. 2).
- (7) The power of the Secretary of State to make regulations under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) That power includes power—
- (a) to make different provision for different cases;
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as he thinks fit.

Supplying imitation firearms to minors

- 8 (1) After Article 66 of the Firearms Order insert—

Supplying imitation firearms to minors

- “66A(1) It is an offence for a person under the age of 18 to purchase an imitation firearm.
- (2) It is an offence to sell an imitation firearm to a person under the age of 18.
- (3) In proceedings for an offence under paragraph (2) it is a defence to show that the person charged with the offence—

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- (a) believed the other person to be aged 18 or over; and
- (b) had reasonable ground for that belief.”

(2) In Article 68 of that Order (defences), for “or 64” substitute “, 64 or 66A”.

(3) In Schedule 5 of that Order (punishments), after the entry for Article 66 insert—

“Article 66A(1) or (2)	Acquisition by a minor of an imitation firearm and supplying him.	Summary	6 months or level 5 or both.”
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Increase of maximum sentence for possessing an imitation firearm

- 9 (1) In the entry in Schedule 5 to the Firearms Order relating to Article 61(1) of that Order (mode of trial and punishment of possession of firearm or imitation firearm in a public place)—
- (a) in paragraph (b) of column 3 (offence to be triable on indictment except in the case of an imitation firearm or air gun), omit the words “in the case of an imitation firearm or”; and
 - (b) in column 4, for “10 years or a fine or both” substitute “If the offence is committed in respect of an imitation firearm, 12 months or a fine, or both; in any other case, 10 years or a fine, or both.”
- (2) This paragraph applies only to offences committed after the commencement of this paragraph.

Sale etc. of knives and other weapons

- 10 In Article 54(1) of the Criminal Justice (Northern Ireland) Order 1996 ([SI 1996/3160 \(NI 24\)](#)) (prohibition on sale of knives etc. to persons under 16) for “16” substitute “18”.
- 11 (1) Section 141 of the Criminal Justice Act [1988 \(c. 33\)](#) (offensive weapons) is amended as follows.
- (2) In subsections (5), (8) and (9) of section 141 (defences relating to museums and galleries to offence of manufacture, sale etc. of prescribed weapons), for “prove” substitute “show”.
- (3) After subsection (11) of that section insert—
- “(11A) It shall be a defence for a person charged in respect of conduct of his relating to a weapon to which this section applies—
- (a) with an offence under subsection (1) above, or
 - (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,
- to show that his conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).
- (11B) Those purposes are—
- (a) the purposes of theatrical performances and of rehearsals for such performances;

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- (b) the production of films (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 – see section 5B of that Act);
- (c) the production of television programmes (within the meaning of the Communications Act 2003 – see section 405(1) of that Act).

(11C) For the purposes of this section a person shall be taken to have shown a matter specified in subsection (5), (8), (9) or (11A) above if—

- (a) sufficient evidence of that matter is adduced to raise an issue with respect to it; and
- (b) the contrary is not proved beyond a reasonable doubt.

(11D) The Secretary of State may by order made by statutory instrument—

- (a) provide for exceptions and exemptions from the offence under subsection (1) above or from the prohibition in subsection (4) above; and
- (b) provide for it to be a defence in proceedings for such an offence, or for an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979, to show the matters specified or described in the order.

(11E) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.”

- (4) The defence in section 141(11A) is not available in relation to so much of any charge as relates to conduct taking place before the commencement of this paragraph.

Sale etc. of crossbows

12 (1) In the Crossbows (Northern Ireland) Order 1988 (SI 1988/794 (NI 5)), in the provisions mentioned in sub-paragraph (2), for “seventeen”, in each place it occurs, substitute “eighteen”.

(2) The provisions are—

- (a) Article 3 (sale and letting on hire);
- (b) Article 4 (purchase and hiring);
- (c) Article 5 (possession).

Amendment of police power to search schools etc. for weapons

13 In section 139B of the Criminal Justice Act 1988 (c. 33) (power of entry to search for knives etc. and offensive weapons), in subsection (1) for “believing” substitute “suspecting”.

Supplemental

14 (1) In this Schedule “the Firearms Order” means the Firearms (Northern Ireland) Order 2004 (SI 2004/702 (NI 3)).

(2) Expressions used in this Schedule and in the Firearms Order have the same meanings in this Schedule as in that Order.

Status: This is the original version (as it was originally enacted).

- (3) The following provisions of the Firearms Order apply as if paragraphs 1, 2 and 4 to 7 of this Schedule were contained in that Order—
- (a) Article 52 (power of search with warrant);
 - (b) Article 69(4) (limitation period for prosecutions);
 - (c) Article 72 (forfeiture and disposal of firearms and ammunition);
 - (d) Article 81 (savings).
- (4) Article 77(3) of the Firearms Order (certain persons deemed to be in armed forces) applies for the purposes of—
- (a) paragraph 5(2)(f),
 - (b) any rule of law under which any of the provisions of paragraph 1, 2, 4 or 7 do not bind the Crown,
- as it applies for the purposes of Article 77.

SCHEDULE 3

Section 52

FOOTBALL BANNING ORDERS AND FOOTBALL-RELATED CONSEQUENTIAL AMENDMENTS

PART 1

FOOTBALL BANNING ORDERS

Introductory

- 1 The Football Spectators Act 1989 (c. 37) is amended as follows.

Banning orders: bail conditions

- 2 (1) In section 14A (banning orders on conviction of an offence), after subsection (4B) insert—
- “(4BA) If the court adjourns or further adjourns any proceedings under subsection (4A) or (4B), the court may remand the offender.
- (4BB) A person who, by virtue of subsection (4BA), is remanded on bail may be required by the conditions of his bail—
- (a) not to leave England and Wales before his appearance before the court, and
 - (b) if the control period relates to a regulated football match outside the United Kingdom or to an external tournament which includes such matches, to surrender his passport to a police constable, if he has not already done so.”
- (2) In subsection (4C) of that section, omit “But” and after “a warrant” insert “under subsection (4B) above”.
- (3) In section 14B (banning orders on a complaint), after subsection (4) insert—

Status: This is the original version (as it was originally enacted).

“(5) If the magistrates' court adjourns proceedings on an application under this section, the court may remand the person in respect of whom the application is made.

(6) A person who, by virtue of subsection (5) above, is remanded on bail under section 128 of the Magistrates' Courts Act 1980 may be required by the conditions of his bail—

- (a) not to leave England and Wales before his appearance before the court, and
- (b) if the control period relates to a regulated football match outside the United Kingdom or to an external tournament which includes such matches, to surrender his passport to a police constable, if he has not already done so.”

Appeals against decisions not to make banning orders

3 (1) In section 14A (banning order made on conviction for an offence), after subsection (5) insert—

“(5A) The prosecution has a right of appeal against a failure by the court to make a banning order under this section—

- (a) where the failure is by a magistrates' court, to the Crown Court; and
- (b) where it is by the Crown Court, to the Court of Appeal.

(5B) An appeal under subsection (5A)(b) may be brought only if the Court of Appeal gives permission or the judge who decided not to make an order grants a certificate that his decision is fit for appeal.

(5C) An order made on appeal under this section (other than one directing that an application be re-heard by the court from which the appeal was brought) is to be treated for the purposes of this Part as if it were an order of the court from which the appeal was brought.”

(2) In section 14D (appeals against banning orders made on complaint), after subsection (1) insert—

“(1A) An appeal lies to the Crown Court against the dismissal by a magistrates' court of an application for the making of a banning order under section 14B above.”

(3) In subsection (2) of that section, for “the appeal” substitute “an appeal under this section”.

Applications for banning orders under section 14B

4 (1) In section 14B (banning orders made on a complaint)—

(a) for subsection (1) substitute—

“(1) An application for a banning order in respect of any person may be made by—

- (a) the relevant chief officer, or
- (b) the Director of Public Prosecutions,

if it appears to him that the condition in subsection (2) is met.”;

Status: This is the original version (as it was originally enacted).

(b) after subsection (1) insert—

“(1A) In subsection (1) ‘the relevant chief officer’ means—

- (a) the chief officer of police of any police force maintained for a police area; or
- (b) the chief constable of the British Transport Police Force.”

(2) In section 21B(4) (summary measures: reference to a court), for “the chief officer of police for the area in which the person resides or appears to reside” substitute “the relevant chief officer”.

Notification obligations under banning orders

5 (1) Section 14E (banning orders: general) is amended as follows.

(2) After subsection (2) insert—

“(2A) A banning order must require the person subject to the order to give notification of the events mentioned in subsection (2B) to the enforcing authority.

(2B) The events are—

- (a) a change of any of his names;
- (b) the first use by him after the making of the order of a name for himself that was not disclosed by him at the time of the making of the order;
- (c) a change of his home address;
- (d) his acquisition of a temporary address;
- (e) a change of his temporary address or his ceasing to have one;
- (f) his becoming aware of the loss of his travel authorisation;
- (g) receipt by him of a new travel authorisation;
- (h) an appeal made by him in relation to the order;
- (i) an application made by him under section 14H(2) for termination of the order;
- (j) an appeal made by him under section 23(3) against the making of a declaration of relevance in respect of an offence of which he has been convicted.

(2C) A notification required by a banning order by virtue of subsection (2A) must be given before the end of the period of seven days beginning with the day on which the event in question occurs and—

- (a) in the case of a change of a name or address or the acquisition of a temporary address, must specify the new name or address;
- (b) in the case of a first use of a previously undisclosed name, must specify that name; and
- (c) in the case of a receipt of a new travel authorisation, must give details of that travel authorisation.”

(3) In subsection (3) (under which a banning order must, unless there are exceptional circumstances, impose a requirement as to the surrender of the passport of the subject) omit “, unless it appears to the court that there are exceptional circumstances.”.

Status: This is the original version (as it was originally enacted).

- (4) Omit subsection (4) (where exceptional circumstances exist court must state in open court what they are).
- (5) After subsection (7) insert—
- “(8) In this section—
- ‘declaration of relevance’ has the same meaning as in section 23;
 - ‘home address’, in relation to any person, means the address of his sole or main residence;
 - ‘loss’ includes theft or destruction;
 - ‘new’ includes replacement;
 - ‘temporary address’, in relation to any person, means the address (other than his home address) of a place at which he intends to reside, or has resided, for a period of at least four weeks.”
- (6) In relation to times before the commencement of section 39(2) of the Identity Cards Act 2006 (c. 15), the references to a travel authorisation in subsections (2B) and (2C) of section 14E of the Football Spectators Act 1989 (c. 37) shall have effect as references to a passport.
- (7) Sub-paragraphs (3) and (4) apply—
- (a) to a banning order made after the commencement of those sub-paragraphs; and
 - (b) for the purposes of any appeal falling to be determined after the commencement of those sub-paragraphs.

Duration of banning orders

- 6 In section 14F(5) (duration of banning orders), for “three” substitute “five” and for “two” substitute “three”.

Notices during control periods

- 7 In section 19 (functions of enforcing authority and local police), after subsection (2E) (b) insert—
- “(c) must require him to notify the enforcing authority within the time period specified in the notice of each address at which he intends to stay, or has stayed, for one night or more in a period which is the control period in relation to a regulated football match.”

Deemed receipt of notices and other documents

- 8 (1) In section 25 (service of documents), after subsection (1) insert—
- “(1A) A notice or other document served in accordance with subsection (1) on a person who is the subject of a banning order is to be deemed to be received by him at the time when it is served unless he proves otherwise.”
- (2) In section 21(7) (service of notices under section 19), after “subsection (6) above” insert “(instead of section 25(1A))”.

Status: This is the original version (as it was originally enacted).

New relevant offence

- 9 (1) In paragraph 1 of Schedule 1 (offences), in sub-paragraphs (c), (k) and (q) after “under section” insert “4A or”.
- (2) An offence is not a relevant offence by virtue of sub-paragraph (1) if it was committed before the commencement of this paragraph.

PART 2

CONSEQUENTIAL AMENDMENTS

Meaning of “spectator” in Part 1

- 10 For section 1(6) of the Football Spectators Act 1989 (c. 37) (definition of “authorised spectator”) substitute—
- “(6) A person is not to be regarded as a ‘spectator’ in relation to a designated football match if the principal purpose of his being on the premises is to provide services in connection with the match, or to report on it.”

General provisions relating to licences to admit spectators

- 11 In section 10(17) of that Act (licences to admit spectators: general), for “, the licensing authority or the Football Membership Authority” substitute “or the licensing authority”.

Declarations of relevance

- 12 In section 23 of that Act (provisions about declarations of relevance), at the end insert—
- “(5) In this section ‘declaration of relevance’ means a declaration by a court for the purposes of Schedule 1 to this Act that an offence related to football matches, or that it related to one or more particular football matches.”

Periods relevant to football matches

- 13 For paragraph 4(2) of Schedule 1 to that Act (meaning of period relevant to a football match) substitute—
- “(2) For the purposes of this Schedule each of the following periods is ‘relevant to’ a football match to which this Schedule applies—
- (a) in the case of a match which takes place on the day on which it is advertised to take place, the period—
 - (i) beginning 24 hours before whichever is the earlier of the start of the match and the time at which it was advertised to start; and
 - (ii) ending 24 hours after it ends;
 - (b) in the case of a match which does not take place on the day on which it was advertised to take place, the period—
 - (i) beginning 24 hours before the time at which it was advertised to start on that day; and

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(ii) ending 24 hours after that time.”

Amendments of other enactments

- 14 (1) In each of the enactments specified in sub-paragraph (2), for “declaration of relevance under” substitute “declaration of relevance, within the meaning of section 23 of”.
- (2) Those provisions are—
- (a) section 50(1)(h) of the Criminal Appeal Act 1968 (c. 19); and
 - (b) section 108(3) of the Magistrates' Courts Act 1980 (c. 43).
- (3) This paragraph does not apply in relation to declarations made before the commencement of paragraph 12.
- 15 In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2) after paragraph (fa) insert—
- “(fa) where it appears to him appropriate to do so, to have the conduct of applications made by him for orders under section 14B of the Football Spectators Act 1989 (banning orders made on complaint);”.

SCHEDULE 4

Section 54

FORFEITURE AND DETENTION OF VEHICLES ETC.

- 1 The Sexual Offences Act 2003 (c. 42) is amended as follows.
- 2 After section 60 (sections 57 to 59: interpretation and jurisdiction) insert—

“60A Forfeiture of land vehicle, ship or aircraft

- (1) This section applies if a person is convicted on indictment of an offence under sections 57 to 59.
- (2) The court may order the forfeiture of a land vehicle used or intended to be used in connection with the offence if the convicted person—
- (a) owned the vehicle at the time the offence was committed;
 - (b) was at that time a director, secretary or manager of a company which owned the vehicle;
 - (c) was at that time in possession of the vehicle under a hire-purchase agreement;
 - (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement; or
 - (e) was driving the vehicle in the course of the commission of the offence.
- (3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—
- (a) owned the ship or aircraft at the time the offence was committed;
 - (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft;

Status: This is the original version (as it was originally enacted).

- (c) was at that time in possession of the ship or aircraft under a hire-purchase agreement;
 - (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement;
 - (e) was at that time a charterer of the ship or aircraft; or
 - (f) committed the offence while acting as captain of the ship or aircraft.
- (4) But in a case to which subsection (3)(a) or (b) does not apply, forfeiture may be ordered only—
- (a) in the case of a ship, if subsection (5) or (6) applies;
 - (b) in the case of an aircraft, if subsection (5) or (7) applies.
- (5) This subsection applies where a person who, at the time the offence was committed, owned the ship or aircraft or was a director, secretary or manager of a company which owned it, knew or ought to have known of the intention to use it in the course of the commission of an offence under sections 57 to 59.
- (6) This subsection applies where a ship's gross tonnage is less than 500 tons.
- (7) This subsection applies where the maximum weight at which an aircraft (which is not a hovercraft) may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.
- (8) Where a person who claims to have an interest in a land vehicle, ship or aircraft applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle, ship or aircraft unless the person has been given an opportunity to make representations.

60B Detention of land vehicle, ship or aircraft

- (1) If a person has been arrested for an offence under sections 57 to 59, a constable or a senior immigration officer may detain a relevant vehicle, ship or aircraft—
- (a) until a decision is taken as to whether or not to charge the arrested person with that offence;
 - (b) if the arrested person has been charged, until he is acquitted, the charge against him is dismissed or the proceedings are discontinued; or
 - (c) if he has been charged and convicted, until the court decides whether or not to order forfeiture of the vehicle, ship or aircraft.
- (2) A vehicle, ship or aircraft is a relevant vehicle, ship or aircraft, in relation to an arrested person if it is a land vehicle, ship or aircraft which the constable or officer concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under section 60A.
- (3) A person (other than the arrested person) may apply to the court for the release of a land vehicle, ship or aircraft on the grounds that—
- (a) he owns the vehicle, ship or aircraft;

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- (b) he was, immediately before the detention of the vehicle, ship or aircraft, in possession of it under a hire-purchase agreement; or
 - (c) he is a charterer of the ship or aircraft.
- (4) The court to which an application is made under subsection (3) may, on such security or surety being tendered as it considers satisfactory, release the vehicle, ship or aircraft on condition that it is made available to the court if—
- (a) the arrested person is convicted; and
 - (b) an order for its forfeiture is made under section 60A.
- (5) In this section, ‘court’ means—
- (a) in relation to England and Wales—
 - (i) if the arrested person has not been charged, or he has been charged but proceedings for the offence have not begun to be heard, a magistrates' court;
 - (ii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings;
 - (b) in relation to Northern Ireland—
 - (i) if the arrested person has not been charged, a magistrates' court for the county court division in which he was arrested;
 - (ii) if he has been charged but proceedings for the offence have not begun to be heard, a magistrates' court for the county court division in which he was charged;
 - (iii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings.
- (6) In this section, ‘senior immigration officer’ means an immigration officer (appointed or employed as such under the Immigration Act 1971) not below the rank of chief immigration officer.

60C Sections 60A and 60B: interpretation

- (1) In this section and sections 60A and 60B, unless the contrary intention appears—
- ‘aircraft’ includes hovercraft;
 - ‘captain’ means master (of a ship) or commander (of an aircraft);
 - ‘land vehicle’ means any vehicle other than a ship or aircraft;
 - ‘ship’ includes every description of vessel used in navigation.
- (2) In sections 60A and 60B, a reference to being an owner of a vehicle, ship or aircraft includes a reference to being any of a number of persons who jointly own it.”

3 In section 142(2) (provisions extending to Northern Ireland), in paragraph (a) for “to 60” substitute “to 60C”.

SCHEDULE 5

Section 65

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Firearms Act 1968 (c. 27)	<p>In section 3(1)(a), the word “or” at the end.</p> <p>Section 23(4).</p> <p>In section 40(2), the words from “to firearms” to “therein”.</p> <p>In section 51A(1)(a)(i), the word “or” at the end.</p> <p>In Part 1 of Schedule 6, the entry for section 23(4).</p> <p>In paragraph 7 of Part 2 of Schedule 6, the words “or (4)”.</p> <p>In paragraph 8 of Part 2 of Schedule 6, the words “or (4)” in the second place they appear.</p>
Licensed Premises (Exclusion of Certain Persons) Act 1980 (c. 32)	The whole Act.
Magistrates' Courts Act 1980 (c. 43)	In section 24(1B), the “or” at the end of paragraph (a).
Mental Health Act 1983 (c. 20)	In section 37(1A), the “or” at the end of paragraph (b).
Criminal Justice Act 1988 (c. 33)	<p>In section 36(2)(b), the “or” at the end of sub-paragraph (ii).</p> <p>Section 141(3).</p>
Football Spectators Act 1989 (c. 37)	<p>In section 1—</p> <ul style="list-style-type: none"> (a) subsection (3); (b) in subsection (4), paragraph (b) and the word “and” immediately preceding it; (c) subsections (5) and (8A). <p>Sections 2 to 7.</p> <p>In section 10—</p> <ul style="list-style-type: none"> (a) in subsection (8), paragraph (c) and the word “or” immediately preceding it; (b) in subsection (12), paragraph (b). <p>In section 14A(4C), the word “But”.</p> <p>In section 14E—</p> <ul style="list-style-type: none"> (a) in subsection (3), the words “, unless it appears to the court that there are exceptional circumstances,”; (b) subsection (4).

Status: This is the original version (as it was originally enacted).

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In section 19(2B)(b), the words “and the order imposes a requirement as to the surrender by him of his passport”.
	In section 22A(1), the definition of “declaration of relevance”.
	In Schedule 1, in paragraph 1(a), “2(1), 5(7)”.
	In section 27— (a) in subsection (4), the words “section 3 or”; (b) subsection (5).
Criminal Justice Act 1991 (c. 53)	In Schedule 11, paragraph 23.
Criminal Justice and Public Order Act 1994 (c. 33)	In section 166— (a) in subsection (2)(a), the words “by the home club or”; (b) in subsection (7)(b), the words “the home club or”.
In the table in Part 3 of Schedule 8, the entry relating to offences under section 19 of the Firearms Act 1968 (c. 27).	
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In Schedule 4, paragraph 29.
Data Protection Act 1998 (c. 29)	In Schedule 15, paragraph 9.
Crime and Disorder Act 1998 (c. 37)	In section 18(1), the definition of “sex offender order”. In section 51A(12), the “or” at the end of paragraph (b).
Football (Offences and Disorder) Act 1999 (c. 21)	Section 2(3).
Access to Justice Act 1999 (c. 22)	In Schedule 13— (a) paragraph 94; (b) in paragraph 158, the words “7(7)(b) and”.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 164(3), the “or” at the end of paragraph (b). In Schedule 9, paragraph 60.
Football (Disorder) Act 2000 (c. 25)	Section 5(2). In Schedule 2, paragraphs 12, 13 and 20.
Football (Disorder) (Amendment) Act 2002 (c. 12)	The whole Act.
Mobile Telephones (Re-programming) Act 2002 (c. 31)	In section 1(1)(a), the word “or” at the end.
Licensing Act 2003 (c. 17)	In Schedule 6, paragraph 74.
Anti-social Behaviour Act 2003 (c. 38)	Section 37(3).

Status: This is the original version (as it was originally enacted).

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In section 38, subsections (2), (4), (5)(a) to (c) and (5)(e).
Courts Act 2003 (c. 39)	In Schedule 8, the unnumbered paragraph after paragraph 200 and paragraph 331.
Criminal Justice Act 2003 (c. 44)	In section 150, the “or” at the end of paragraph (c).
	In Schedule 26, paragraphs 27 and 41.