

Status: Point in time view as at 03/11/1994.

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SCHEDULES

SCHEDULE 1

Sections 8(3) and 9(2).

AMENDMENTS OF 1973 ACT

Commencement Information

II Sch. 1 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

PART I

PROVISIONS INSERTED AS SECTIONS 1A TO 1C

Commencement Information

I2 Sch. 1 (Pts. I and II) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), Sch. 2.

“ Discharge

Absolute and conditional discharge.

- 1A (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment, the court may make an order either—
- (a) discharging him absolutely; or
 - (b) if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding three years from the date of the order, as may be specified in the order.
- (2) An order discharging a person subject to such a condition is in this Act referred to as “an order for conditional discharge”, and the period specified in any such order as “the period of conditional discharge”.
- (3) Before making an order for conditional discharge the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.
- (4) Where, under the following provisions of this Part of this Act, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.
- (5) The Secretary of State may by order direct that subsection (1) above shall be amended by substituting, for the maximum period specified in that subsection as originally enacted

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or as previously amended under this subsection, such period as may be specified in the order.

Commission of further offence by person conditionally discharged.

- 1B (1) If it appears to the Crown Court, where that court has jurisdiction in accordance with subsection (2) below, or to a justice of the peace having jurisdiction in accordance with that subsection, that a person in whose case an order for conditional discharge has been made—
- (a) has been convicted by a court in any part of Great Britain of an offence committed during the period of conditional discharge; and
 - (b) has been dealt with in respect of that offence,
- that court or justice may, subject to subsection (3) below, issue a summons requiring that person to appear at the place and time specified therein or a warrant for his arrest.
- (2) Jurisdiction for the purposes of subsection (1) above may be exercised—
- (a) if the order for conditional discharge was made by the Crown Court, by that court;
 - (b) if the order was made by a magistrates' court, by a justice acting for the petty sessions area for which that court acts.
- (3) A justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.
- (4) A summons or warrant issued under this section shall direct the person to whom it relates to appear or to be brought before the court by which the order for conditional discharge was made.
- (5) If a person in whose case an order for conditional discharge has been made by the Crown Court is convicted by a magistrates' court of an offence committed during the period of conditional discharge, the magistrates' court—
- (a) may commit him to custody or release him on bail until he can be brought or appear before the Crown Court; and
 - (b) if it does so, shall send to the Crown Court a copy of the minute or memorandum of the conviction entered in the register, signed by the clerk of the court by whom the register is kept.
- (6) Where it is proved to the satisfaction of the court by which an order for conditional discharge was made that the person in whose case the order was made has been convicted of an offence committed during the period of conditional discharge, the court may deal with him, for the offence for which the order was made, in any manner in which it could deal with him if he had just been convicted by or before that court of that offence.
- (7) If a person in whose case an order for conditional discharge has been made by a magistrates' court—
- (a) is convicted before the Crown Court of an offence committed during the period of conditional discharge; or
 - (b) is dealt with by the Crown Court for any such offence in respect of which he was committed for sentence to the Crown Court,

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the Crown Court may deal with him, for the offence for which the order was made, in any manner in which the magistrates' court could deal with him if it had just convicted him of that offence.

- (8) If a person in whose case an order for conditional discharge has been made by a magistrates' court is convicted by another magistrates' court of any offence committed during the period of conditional discharge, that other court may, with the consent of the court which made the order, deal with him, for the offence for which the order was made, in any manner in which the court could deal with him if it had just convicted him of that offence.
- (9) Where an order for conditional discharge has been made by a magistrates' court in the case of an offender under eighteen years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under subsection (6), (7) or (8) above by that or any other court in respect of the offender after he has attained the age of eighteen years shall be those which would be exercisable if that offence were an offence triable either way and had been tried summarily.
- (10) For the purposes of this section the age of an offender at a particular time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.

Effect of discharge.

- 1C (1) Subject to subsection (2) below and to section 50(1A) of the Criminal Appeal Act 1968 and section 108(1A) of the Magistrates' Courts Act 1980, a conviction of an offence for which an order is made under this Part of this Act discharging the offender absolutely or conditionally shall be deemed not to be a conviction for any purpose other than—
- (a) the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under the following provisions of this Act; and
 - (b) the purposes of section 1(2)(bb) of the Children and Young Persons Act 1969.
- (2) Where the offender was of or over eighteen years of age at the time of his conviction of the offence in question and is subsequently sentenced under this Part of this Act for that offence, subsection (1) above shall cease to apply to the conviction.
- (3) Without prejudice to the preceding provisions of this section, the conviction of an offender who is discharged absolutely or conditionally under this Part of this Act shall in any event be disregarded for the purposes of any enactment or instrument which—
- (a) imposes any disqualification or disability upon convicted persons; or
 - (b) authorises or requires the imposition of any such disqualification or disability.
- (4) The preceding provisions of this section shall not affect—
- (a) any right of any offender discharged absolutely or conditionally under this Part of this Act to rely on his conviction in bar of any subsequent proceedings for the same offence; or
 - (b) the restoration of any property in consequence of the conviction of any such offender; or
 - (c) the operation, in relation to any such offender, of any enactment or instrument in force at the commencement of this Act which is expressed to extend to persons dealt with under section 1(1) of the Probation of Offenders Act 1907 as well as to convicted persons.

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- (5) In this section “enactment” includes an enactment contained in a local Act and “instrument” means an instrument having effect by virtue of an Act.”

PART II

PROVISIONS INSERTED AS SCHEDULE 1A

Commencement Information

I3 Sch. 1 (Pts. I and II) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

“SCHEDULE 1A

ADDITIONAL REQUIREMENTS IN PROBATION ORDERS

Requirements as to residence

- 1 (1) Subject to sub-paragraphs (2) and (3) below, a probation order may include requirements as to the residence of the offender.
- (2) Before making a probation order containing any such requirement, the court shall consider the home surroundings of the offender.
- (3) Where a probation order requires the offender to reside in an approved hostel or any other institution, the period for which he is so required to reside shall be specified in the order.

Requirements as to activities etc.

- 2 (1) Subject to the provisions of this paragraph, a probation order may require the offender—
 - (a) to present himself to a person or persons specified in the order at a place or places so specified;
 - (b) to participate or refrain from participating in activities specified in the order—
 - (i) on a day or days so specified; or
 - (ii) during the probation period or such portion of it as may be so specified.
- (2) A court shall not include in a probation order a requirement such as is mentioned in sub-paragraph (1) above unless—
 - (a) it has consulted a probation officer; and
 - (b) it is satisfied that it is feasible to secure compliance with the requirement.
- (3) A court shall not include a requirement such as is mentioned in sub-paragraph (1) (a) above or a requirement to participate in activities if it would involve the co-operation of a person other than the offender and the probation officer responsible for his supervision, unless that other person consents to its inclusion.
- (4) A requirement such as is mentioned in sub-paragraph (1)(a) above shall operate to require the offender—
 - (a) in accordance with instructions given by the probation officer responsible for his supervision, to present himself at a place or places for not more than 60 days in the aggregate; and

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- (b) while at any place, to comply with instructions given by, or under the authority of, the person in charge of that place.
- (5) A place specified in an order shall have been approved by the probation committee for the area in which the premises are situated as providing facilities suitable for persons subject to probation orders.
- (6) A requirement to participate in activities shall operate to require the offender—
 - (a) in accordance with instructions given by the probation officer responsible for his supervision, to participate in activities for not more than 60 days in the aggregate; and
 - (b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.
- (7) Instructions given by a probation officer under sub-paragraph (4) or (6) above shall, as far as practicable, be such as to avoid any interference with the times, if any, at which the offender normally works or attends a school or other educational establishment.

Requirements as to attendance at probation centre

- 3 (1) Subject to the provisions of this paragraph, a probation order may require the offender during the probation period to attend at a probation centre specified in the order.
- (2) A court shall not include such a requirement in a probation order unless—
 - (a) it has consulted a probation officer; and
 - (b) it is satisfied—
 - (i) that arrangements can be made for the offender’s attendance at a centre; and
 - (ii) that the person in charge of the centre consents to the inclusion of the requirement.
- (3) A requirement under sub-paragraph (1) above shall operate to require the offender—
 - (a) in accordance with instructions given by the probation officer responsible for his supervision, to attend on not more than 60 days at the centre specified in the order; and
 - (b) while attending there to comply with instructions given by, or under the authority of, the person in charge of the centre.
- (4) Instructions given by a probation officer under sub-paragraph (3) above shall, so far as is practicable, be such as to avoid any interference with the times, if any, at which the offender normally works or attends a school or other educational establishment.
- (5) References in this paragraph to attendance at a probation centre include references to attendance elsewhere than at the centre for the purpose of participating in activities in accordance with instructions given by, or under the authority of, the person in charge of the centre.
- (6) The Secretary of State may make rules for regulating the provision and carrying on of probation centres and the attendance at such centres of persons subject to probation orders; and such rules may in particular include provision with respect to hours of attendance, the reckoning of days of attendance and the keeping of attendance records.
- (7) In this paragraph “probation centre” means premises—

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- (a) at which non-residential facilities are provided for use in connection with the rehabilitation of offenders; and
- (b) which are for the time being approved by the Secretary of State as providing facilities suitable for persons subject to probation orders.

Extension of requirements for sexual offenders

- 4 (1) If the court so directs in the case of an offender who has been convicted of a sexual offence—
- (a) sub-paragraphs (4) and (6) of paragraph 2 above; and
 - (b) sub-paragraph (3) of paragraph 3 above,
- shall each have effect as if for the reference to 60 days there were substituted a reference to such greater number of days as may be specified in the direction.
- (2) In this paragraph “sexual offence” has the same meaning as in Part I of the Criminal Justice Act 1991.

Requirements as to treatment for mental condition etc.

- 5 (1) This paragraph applies where a court proposing to make a probation order is satisfied, on the evidence of a duly qualified medical practitioner approved for the purposes of section 12 of the Mental Health Act 1983, that the mental condition of the offender—
- (a) is such as requires and may be susceptible to treatment; but
 - (b) is not such as to warrant the making of a hospital order or guardianship order within the meaning of that Act.
- (2) The probation order may include a requirement that the offender shall submit, during the whole of the probation period or during such part of that period as may be specified in the order, to treatment by or under the direction of a duly qualified medical practitioner with a view to the improvement of the offender’s mental condition.
- (3) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
- (a) treatment as a resident patient in a mental hospital;
 - (b) treatment as a non-resident patient at such institution or place as may be specified in the order; and
 - (c) treatment by or under the direction of such duly qualified medical practitioner as may be so specified;
- but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.
- (4) A court shall not by virtue of this paragraph include in a probation order a requirement that the offender shall submit to treatment for his mental condition unless it is satisfied that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident patient).
- (5) While the offender is under treatment as a resident patient in pursuance of a requirement of the probation order, the probation officer responsible for his supervision shall carry out the supervision to such extent only as may be necessary for the purpose of the revocation or amendment of the order.

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- (6) Where the medical practitioner by whom or under whose direction an offender is being treated for his mental condition in pursuance of a probation order is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—
- (a) is not specified in the order; and
 - (b) is one in or at which the treatment of the offender will be given by or under the direction of a duly qualified medical practitioner,
- he may, with the consent of the offender, make arrangements for him to be treated accordingly.
- (7) Such arrangements as are mentioned in sub-paragraph (6) above may provide for the offender to receive part of his treatment as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the probation order.
- (8) Where any such arrangements as are mentioned in sub-paragraph (6) above are made for the treatment of an offender—
- (a) the medical practitioner by whom the arrangements are made shall give notice in writing to the probation officer responsible for the supervision of the offender, specifying the institution or place in or at which the treatment is to be carried out; and
 - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the probation order.
- (9) Subsections (2) and (3) of section 54 of the Mental Health Act 1983 shall have effect with respect to proof for the purposes of sub-paragraph (1) above of an offender's mental condition as they have effect with respect to proof of an offender's mental condition for the purposes of section 37(2)(a) of that Act.
- (10) In this paragraph "mental hospital" means a hospital within the meaning of the Mental Health Act 1983 or mental nursing home within the meaning of the Registered Homes Act 1984, not being a special hospital within the meaning of the National Health Service Act 1977.

Requirements as to treatment for drug or alcohol dependency

- 6 (1) This paragraph applies where a court proposing to make a probation order is satisfied—
- (a) that the offender is dependent on drugs or alcohol;
 - (b) that his dependency caused or contributed to the offence in respect of which the order is proposed to be made; and
 - (c) that his dependency is such as requires and may be susceptible to treatment.
- (2) The probation order may include a requirement that the offender shall submit, during the whole of the probation period or during such part of that period as may be specified in the order, to treatment by or under the direction of a person having the necessary qualifications or experience with a view to the reduction or elimination of the offender's dependency on drugs or alcohol.
- (3) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
- (a) treatment as a resident in such institution or place as may be specified in the order;

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- (b) treatment as a non-resident in or at such institution or place as may be so specified; and
 - (c) treatment by or under the direction of such person having the necessary qualifications or experience as may be so specified;but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.
- (4) A court shall not by virtue of this paragraph include in a probation order a requirement that the offender shall submit to treatment for his dependency on drugs or alcohol unless it is satisfied that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident).
- (5) While the offender is under treatment as a resident in pursuance of a requirement of the probation order, the probation officer responsible for his supervision shall carry out the supervision to such extent only as may be necessary for the purpose of the revocation or amendment of the order.
- (6) Where the person by whom or under whose direction an offender is being treated for dependency on drugs or alcohol in pursuance of a probation order is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—
 - (a) is not specified in the order; and
 - (b) is one in or at which the treatment of the offender will be given by or under the direction of a person having the necessary qualifications or experience,he may, with the consent of the offender, make arrangements for him to be treated accordingly.
- (7) Such arrangements as are mentioned in sub-paragraph (6) above may provide for the offender to receive part of his treatment as a resident in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the probation order.
- (8) Where any such arrangements as are mentioned in sub-paragraph (6) above are made for the treatment of an offender—
 - (a) the person by whom the arrangements are made shall give notice in writing to the probation officer responsible for the supervision of the offender, specifying the institution or place in or at which the treatment is to be carried out; and
 - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the probation order.
- (9) In this paragraph the reference to the offender being dependent on drugs or alcohol includes a reference to his having a propensity towards the misuse of drugs or alcohol, and references to his dependency on drugs or alcohol shall be construed accordingly.”

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SCHEDULE 2

Section 14(1).

ENFORCEMENT ETC. OF COMMUNITY ORDERS

Modifications etc. (not altering text)

- C1** Sch. 2 applied (with modifications) (1.4.1996) by 1995 c. 46, ss. 234(5)(6), 309(2) (with ss. 24(2), 307(2))
Sch. 2 applied (with modifications) (30.9.1998) by 1998 c. 37, ss. 68(3), 70(5), Sch. 5 para. 5(4)(5);
S.I. 1998/2327, arts.2(1)(o)
Sch. 2 applied (with modifications) (30.9.1998) by 1969 c. 54, s. 16B (as inserted by 1998 c. 37, s. 119,
Sch. 8 para.21; S.I. 1998/2327, arts.2(1)(y)(2)(i))

Commencement Information

- I4** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

PART I

PRELIMINARY

Commencement Information

- I5** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 1 (1) In this Schedule “relevant order” means any of the following orders, namely, a probation order, a community service order and a curfew order; and “the petty sessions area concerned” means—
- in relation to a probation or community service order, the petty sessions area for the time being specified in the order; and
 - in relation to a curfew order, the petty sessions area in which the place for the time being specified in the order is situated.
- (2) Subject to sub-paragraph (3) below, this Schedule shall apply in relation to combination orders—
- in so far as they impose such a requirement as is mentioned in paragraph (a) of subsection (1) of section 11 of this Act, as if they were probation orders; and
 - in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were community service orders.
- (3) In its application to combination orders, paragraph 6(3) below shall have effect as if the reference to section 14(1A) of the 1973 Act were a reference to section 11(1) of this Act.

Commencement Information

- I6** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

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PART II

BREACH OF REQUIREMENT OF ORDER

Commencement Information

I7 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

Issue of summons or warrant

- 2 (1) If at any time while a relevant order is in force in respect of an offender it appears on information to a justice of the peace acting for the petty sessions area concerned that the offender has failed to comply with any of the requirements of the order, the justice may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it; or
 - (b) if the information is in writing and on oath, issue a warrant for his arrest.
- (2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought before a magistrates' court acting for the petty sessions area concerned.

Commencement Information

I8 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Powers of magistrates' court

- 3 (1) If it is proved to the satisfaction of the magistrates' court before which an offender appears or is brought under paragraph 2 above that he has failed without reasonable excuse to comply with any of the requirements of the relevant order, the court may deal with him in respect of the failure in any one of the following ways, namely—
- (a) it may impose on him a fine not exceeding £1,000;
 - (b) subject to paragraph 6(3) to (5) below, it may make a community service order in respect of him;
 - (c) where the relevant order is a probation order and the case is one to which section 17 of the 1982 Act applies, it may make an order under that section requiring him to attend at an attendance centre; or
 - (d) where the relevant order was made by a magistrates' court, it may revoke the order and deal with him, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.
- (2) In dealing with an offender under sub-paragraph (1)(d) above, a magistrates' court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the relevant order; and

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- (b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.
- (3) Where a relevant order was made by the Crown Court and a magistrates' court has power to deal with the offender under sub-paragraph (1)(a), (b) or (c) above, it may instead commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (4) A magistrates' court which deals with an offender's case under sub-paragraph (3) above shall send to the Crown Court—
- (a) a certificate signed by a justice of the peace certifying that the offender has failed to comply with the requirements of the relevant order in the respect specified in the certificate; and
- (b) such other particulars of the case as may be desirable;
- and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.
- (5) A person sentenced under sub-paragraph (1)(d) above for an offence may appeal to the Crown Court against the sentence.

Modifications etc. (not altering text)

- C2** Sch. 2 para. 3(1): power to amend conferred (1.10.1992) by [Magistrates' Courts Act 1980 \(c. 43\)](#), [Sch.6A](#) (as substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 17(3), [Sch. 4 Pt. IV](#)) (with s. 28); [S.I. 1992/333](#), art. 2(2), [Sch.2](#)

Commencement Information

- I9** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).

Powers of Crown Court

- 4 (1) Where by virtue of paragraph 3(3) above an offender is brought or appears before the Crown Court and it is proved to the satisfaction of the court that he has failed to comply with any of the requirements of the relevant order, that court may deal with him in respect of the failure in any one of the following ways, namely—
- (a) it may impose on him a fine not exceeding £1,000;
- (b) subject to paragraph 6(3) to (5) below, it may make a community service order in respect of him;
- (c) where the relevant order is a probation order and the case is one to which section 17 of the 1982 Act applies, it may make an order under that section requiring him to attend at an attendance centre; or
- (d) it may revoke the order and deal with him, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by or before the court of the offence.
- (2) In dealing with an offender under sub-paragraph (1)(d) above, the Crown Court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the relevant order; and

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- (b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.
- (3) In proceedings before the Crown Court under this paragraph any question whether the offender has failed to comply with the requirements of the relevant order shall be determined by the court and not by the verdict of a jury.

Modifications etc. (not altering text)

- C3** Sch. 2 para. 4(1): power to amend conferred (1.10.1992) by [Magistrates' Courts Act 1980 \(c. 43\)](#), [Sch. 6A](#) (as substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), ss. 17(3), 102(2), [Sch. 4 Pt. IV](#)) (with s. 28); [S.I. 1992/333](#), art. 2(2), [Sch. 2](#)

Commencement Information

- I10** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).

Exclusions

- 5 (1) Without prejudice to paragraphs 7 and 8 below, an offender who is convicted of a further offence while a relevant order is in force in respect of him shall not on that account be liable to be dealt with under paragraph 3 or 4 above in respect of a failure to comply with any requirement of the order.
- (2) An offender who is required by a probation order to submit to treatment for his mental condition, or his dependency on drugs or alcohol, shall not be treated for the purposes of paragraph 3 or 4 above as having failed to comply with that requirement on the ground only that he has refused to undergo any surgical, electrical or other treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances.

Commencement Information

- I11** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).

Supplemental

- 6 (1) Any exercise by a court of its powers under paragraph 3(1)(a), (b) or (c) or 4(1)(a) or (b) above shall be without prejudice to the continuance of the relevant order.
- [^{F1}(2) A fine imposed under paragraph 3(1)(a) or 4(1)(a) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.]
- (3) The number of hours which an offender may be required to work under a community service order made under paragraph 3(1)(b) or 4(1)(b) above—
- (a) shall be specified in the order and shall not exceed 60 in the aggregate; and

Status: Point in time view as at 03/11/1994.

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- (b) where the relevant order is a community service order, shall not be such that the total number of hours under both orders exceeds the maximum specified in section 14(1A) of the 1973 Act.
- (4) Section 14(2) of the 1973 Act and, so far as applicable—
- (a) the following provisions of that Act relating to community service orders; and
- (b) the provisions of this Schedule so far as so relating,
- shall have effect in relation to a community service order under paragraph 3(1)(b) or 4(1)(b) above as they have effect in relation to a community service order in respect of an offender.
- (5) Where the provisions of this Schedule have effect as mentioned in sub-paragraph (4) above, the powers conferred by those provisions to deal with the offender for the offence in respect of which the community service order was made shall be construed as powers to deal with the offender for the failure to comply with the requirements of the relevant order in respect of which the community service order was made.

Textual Amendments

- F1** Sch. 2 para. 6(2) substituted (20.9.1993) by 1993 c. 36, s. 65(3)(4), Sch. 3 para. 6(7); S.I. 1993/1968, art. 2(2), Sch.2

Commencement Information

- I12** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 30/09/1998

- [^{F2}6A (1) Where a relevant order was made by a magistrates' court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under paragraph 3(1)(d) above by that or any other court in respect of the offender after he has attained the age of 18 years shall be powers to do either or both of the following—
- (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;
- (b) to deal with the offender for that offence in any way in which a magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.
- (2) In sub-paragraph (1)(b) above any reference to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.]

Textual Amendments

- F2** Sch. 2 para. 6A inserted (30.9.1998, subject to S.I. 1998/2327, art. 6(4)(b)) by 1998 c. 37, s. 106, Sch. 7 para. 46(8); S.I. 1998/2327, arts2(1)(w), 6(4)(b)

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART III

REVOCATION OF ORDER

Commencement Information

I13 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

Revocation of order with or without re-sentencing

- 7 (1) This paragraph applies where a relevant order is in force in respect of any offender and, on the application of the offender or the responsible officer, it appears to a magistrates' court acting for the petty sessions area concerned that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- (a) that the order should be revoked; or
 - (b) that the offender should be dealt with in some other manner for the offence in respect of which the order was made.
- (2) The court may—
- (a) if the order was made by a magistrates' court—
 - (i) revoke the order; or
 - (ii) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence; or
 - (b) if the order was made by the Crown Court, commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) The circumstances in which a probation order may be revoked under sub-paragraph (2)(a)(i) above shall include the offender's making good progress or his responding satisfactorily to supervision.
- (4) In dealing with an offender under sub-paragraph (2)(a)(ii) above, a magistrates' court shall take into account the extent to which the offender has complied with the requirements of the relevant order.
- (5) An offender sentenced under sub-paragraph (2)(a)(ii) above may appeal to the Crown Court against the sentence.
- (6) Where the court deals with an offender's case under sub-paragraph (2)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.
- (7) Where a magistrates' court proposes to exercise its powers under this paragraph otherwise than on the application of the offender it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.
- (8) No application may be made by the offender under sub-paragraph (1) above while an appeal against the relevant order is pending.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I14 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 8 (1) This paragraph applies where an offender in respect of whom a relevant order is in force—
- (a) is convicted of an offence before the Crown Court; or
 - (b) is committed by a magistrates' court to the Crown Court for sentence and is brought or appears before the Crown Court; or
 - (c) by virtue of paragraph 7(2)(b) above is brought or appears before the Crown Court.
- (2) If it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Crown Court may—
- (a) revoke the order; or
 - (b) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by or before the court of the offence.
- (3) The circumstances in which a probation order may be revoked under sub-paragraph (2)(a) above shall include the offender's making good progress or his responding satisfactorily to supervision.
- (4) In dealing with an offender under sub-paragraph (2)(b) above, the Crown Court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

Commencement Information

I15 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 30/09/1998

- ^{F3}8A (1) This paragraph applies where a probation order is in force in respect of any offender and on the application of the offender or the responsible officer it appears to a magistrates' court acting for the petty sessions area concerned that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- (a) for the probation order to be revoked; and
 - (b) for an order to be made under section 1A(1)(b) of the 1973 Act discharging the offender conditionally for the offence for which the probation order was made.
- (2) No application may be made under paragraph 7 above for a probation order to be revoked and replaced with an order for conditional discharge under section 1A(1)(b) of the 1973 Act; but otherwise nothing in this paragraph shall affect the operation of paragraphs 7 and 8 above.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Where this paragraph applies and the probation order was made by a magistrates' court—
- (a) the magistrates' court dealing with the application may revoke the probation order and make an order under section 1A(1)(b) of the 1973 Act discharging the offender in respect of the offence for which the probation order was made, subject to the condition that he commits no offence during the period specified in the order under section 1A(1)(b); and
 - (b) the period specified in the order under section 1A(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation order would have ended.
- (4) Where this paragraph applies and the probation order was made by the Crown Court, the magistrates' court may send the application to the Crown Court to be heard by that court, and if it does so shall also send to the Crown Court such particulars of the case as may be desirable.
- (5) Where an application under this paragraph is heard by the Crown Court by virtue of sub-paragraph (4) above—
- (a) the Crown Court may revoke the probation order and make an order under section 1A(1)(b) of the 1973 Act discharging the offender in respect of the offence for which the probation order was made, subject to the condition that he commits no offence during the period specified in the order under section 1A(1)(b); and
 - (b) the period specified in the order under section 1A(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation order would have ended.
- (6) For the purposes of sub-paragraphs (3) and (5) above, subsection (1) of section 1A of the 1973 Act shall apply as if—
- (a) for the words from the beginning to “may make an order either” there were substituted the words “Where paragraph 8A of Schedule 2 to the^{M1} Criminal Justice Act 1991 applies, the court which under sub-paragraph (3) or (5) of that paragraph has power to dispose of the application may (subject to the provisions of that sub-paragraph) make an order in respect of the offender”; and
 - (b) paragraph (a) of that subsection were omitted.
- (7) An application under this paragraph may be heard in the offender's absence if—
- (a) the application is made by the responsible officer; and
 - (b) that officer produces to the court a statement by the offender that he understands the effect of an order for conditional discharge and consents to the making of the application;
- and where the application is so heard section 1A(3) of the 1973 Act shall not apply.
- (8) No application may be made under this paragraph while an appeal against the probation order is pending.
- (9) Without prejudice to paragraph 11 below, on the making of an order under section 1A(1)(b) of the 1973 Act by virtue of this paragraph the court shall forthwith give copies of the order to the responsible officer, and the responsible officer shall give a copy to the offender.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (10) Each of sections 1(11), 2(9) and 66(4) of the Crime and Disorder Act 1998 (which prevent a court from making an order for conditional discharge in certain cases) shall have effect as if the reference to the court by or before which a person is convicted of an offence there mentioned included a reference to a court dealing with an application under this paragraph in respect of the offence.]

Textual Amendments

- F3** Sch. 2 para. 8A inserted (30.9.1998) by 1998 c. 37, s. 106, Sch. 7 para. 46(11); S.I. 1998/2327, art.2(1)(w)

Marginal Citations

- M1** 1991 c.53.

Revocation of order following custodial sentence

- 9 (1) This paragraph applies where—
- an offender in respect of whom a relevant order is in force is convicted of an offence before a magistrates' court other than a magistrates' court acting for the petty sessions area concerned; and
 - the court imposes a custodial sentence on the offender.
- (2) If it appears to the court, on the application of the offender or the responsible officer, that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made, the court may—
- if the order was made by a magistrates' court, revoke it; and
 - if the order was made by the Crown Court, commit the offender in custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) Where the court deals with an offender's case under sub-paragraph (2)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.

Commencement Information

- I16** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 10 Where by virtue of paragraph 9(2)(b) above an offender is brought or appears before the Crown Court and it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the relevant order was made, the Crown Court may revoke the order.

Commencement Information

- I17** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Supplemental

- 11 (1) On the making under this Part of this Schedule of an order revoking a relevant order, the clerk to the court shall forthwith give copies of the revoking order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of a revoking order are given shall give a copy to the offender and to the person in charge of any institution in which the offender was required by the order to reside.

Commencement Information

I18 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

VALID FROM 30/09/1998

[^{F4}11A Paragraph 6A above shall apply for the purposes of paragraphs 7 and 8 above as it applies for the purposes of paragraph 3 above, but as if in paragraph 6A(1) for the words “powers exercisable under paragraph 3(1)(d) above” there were substituted the words “powers to deal with the offender which are exercisable under paragraph 7(2)(a)(ii) or 8(2)(b) below”.]

Textual Amendments

F4 Sch. 2 para. 11A inserted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 46(12)**; S.I. 1998/2327, art.2(1)(w)

VALID FROM 30/09/1998

[^{F5}11B Where under this Part of this Schedule a relevant order is revoked and replaced by an order for conditional discharge under section 1A(1)(b) of the 1973 Act and—

(a) the order for conditional discharge is not made in the circumstances mentioned in section 1B(9) of the 1973 Act (order made by magistrates’ court in the case of an offender under eighteen in respect of offence triable only on indictment in the case of an adult), but

(b) the relevant order was made in those circumstances,

section 1B(9) of the 1973 Act shall apply as if the order for conditional discharge had been made in those circumstances.]

Textual Amendments

F5 Sch. 2 para. 11B inserted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 46(12)**; S.I. 1998/2327, art. 2(1)(w)

Status: Point in time view as at 03/11/1994.

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PART IV

AMENDMENT OF ORDER

Commencement Information

I19 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

Amendment by reason of change of residence

- 12 (1) This paragraph applies where, at any time while a relevant order is in force in respect of an offender, a magistrates' court acting for the petty sessions area concerned is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions area to another petty sessions area.
- (2) Subject to sub-paragraphs (3) and (4) below, the court may, and on the application of the responsible officer shall, amend the relevant order by substituting the other petty sessions area for the area specified in the order or, in the case of a curfew order, a place in that other area for the place so specified.
- (3) The court shall not amend under this paragraph a probation or curfew order which contains requirements which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the petty sessions area concerned unless, in accordance with paragraph 13 below, it either—
- (a) cancels those requirements; or
 - (b) substitutes for those requirements other requirements which can be complied with if the offender ceases to reside in that area.
- (4) The court shall not amend a community service order under this paragraph unless it appears to the court that provision can be made for the offender to perform work under the order under the arrangements which exist for persons who reside in the other petty sessions area to perform work under such orders.

Commencement Information

I20 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Amendment of requirements of probation or curfew order

- 13 (1) Without prejudice to the provisions of paragraph 12 above, but subject to sub-paragraph (2) below, a magistrates' court for the petty sessions area concerned may, on the application of the offender or the responsible officer, by order amend a probation or curfew order—
- (a) by cancelling any of the requirements of the order; or
 - (b) by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include if it were then making the order.

Status: Point in time view as at 03/11/1994.

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- (2) The power of a magistrates' court under sub-paragraph (1) above shall be subject to the following restrictions, namely—
- (a) the court shall not amend a probation order—
 - (i) by reducing the probation period, or by extending that period beyond the end of three years from the date of the original order; or
 - (ii) by inserting in it a requirement that the offender shall submit to treatment for his mental condition, or his dependency on drugs or alcohol, unless the amending order is made within three months after the date of the original order; and
 - (b) the court shall not amend a curfew order by extending the curfew periods beyond the end of six months from the date of the original order.
- (3) In this paragraph and paragraph 14 below, references to the offender's dependency on drugs or alcohol include references to his propensity towards the misuse of drugs or alcohol.

Commencement Information

I21 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Amendment of certain requirements of probation order

- 14 (1) Where the medical practitioner or other person by whom or under whose direction an offender is being treated for his mental condition, or his dependency on drugs or alcohol, in pursuance of any requirement of a probation order—
- (a) is of the opinion mentioned in sub-paragraph (2) below; or
 - (b) is for any reason unwilling to continue to treat or direct the treatment of the offender,
- he shall make a report in writing to that effect to the responsible officer and that officer shall apply under paragraph 13 above to a magistrates' court for the petty sessions area concerned for the variation or cancellation of the requirement.
- (2) The opinion referred to in sub-paragraph (1) above is—
- (a) that the treatment of the offender should be continued beyond the period specified in that behalf in the order;
 - (b) that the offender needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of a probation order;
 - (c) that the offender is not susceptible to treatment; or
 - (d) that the offender does not require further treatment.

Commencement Information

I22 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

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VALID FROM 30/09/1998

[^{F6} Amendment of drug treatment and testing order]

Textual Amendments

F6 Sch. 2 para. 14A (and the heading immediately preceding it) inserted (30.9.1998) by 1998 c. 37, s. 64(5), Sch. 4 para.10; S.I. 1998/2327, art.2(1)(n)

- ^{F7}14A (1) Without prejudice to the provisions of section 63(2), (7) and (9) of the Crime and Disorder Act 1998, the court responsible for a drug treatment and testing order may by order—
- (a) vary or cancel any of the requirements or provisions of the order on an application by the responsible officer under sub-paragraph (2) or (3)(a) or (b) below; or
 - (b) amend the order on an application by that officer under sub-paragraph (3) (c) below.
- (2) Where the treatment provider is of the opinion that the treatment or testing requirement of the order should be varied or cancelled—
- (a) he shall make a report in writing to that effect to the responsible officer; and
 - (b) that officer shall apply to the court for the variation or cancellation of the requirement.
- (3) Where the responsible officer is of the opinion—
- (a) that the treatment or testing requirement of the order should be so varied as to specify a different treatment provider;
 - (b) that any other requirement of the order, or a provision of the order, should be varied or cancelled; or
 - (c) that the order should be so amended as to provide for each subsequent review under section 63 of the Crime and Disorder Act 1998 to be made without a hearing instead of at a review hearing, or vice versa,
- he shall apply to the court for the variation or cancellation of the requirement or provision or the amendment of the order.
- (4) The court—
- (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended; and
 - (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 61(2) of the Crime and Disorder Act 1998 or to increase it above the maximum so specified.
- (5) If the offender fails to express his willingness to comply with the treatment or testing requirement as proposed to be amended by the court, the court may—
- (a) revoke the order; and
 - (b) deal with him, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) In dealing with the offender under sub-paragraph (5)(b) above, the court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the order; and
 - (b) may impose a custodial sentence notwithstanding anything in section 1(2) of this Act.
- (7) Paragraph 6A above shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 3 above, but as if for the words “paragraph 3(1)(d) above” there were substituted the words “paragraph 14A(5)(b) below”.
- (8) In this paragraph—
- “review hearing” has the same meaning as in section 63 of the Crime and Disorder Act 1998;
- “the treatment requirement” and “the testing requirement” have the same meanings as in Chapter I of Part IV of that Act.

Textual Amendments

- F7** Sch. 2 para. 14A (and the heading immediately preceding it) inserted (30.9.1998) by 1998 c. 37, s. 64(5), Sch. 4 para.10; S.I. 1998/2327, art.2(1)(n)

Extension of community service order

- 15 Where—
- (a) a community service order is in force in respect of any offender; and
 - (b) on the application of the offender or the responsible officer, it appears to a magistrates’ court acting for the petty sessions area concerned that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made,
- the court may, in relation to the order, extend the period of twelve months specified in section 15(2) of the 1973 Act.

Commencement Information

- I23** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Supplemental

- 16 No order may be made under paragraph 12 above, and no application may be made under paragraph 13 or 15 above, while an appeal against the relevant order is pending.

Commencement Information

- I24** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 17 (1) Subject to sub-paragraph (2) below, where a court proposes to exercise its powers under this Part of this Schedule, otherwise than on the application of the offender, the court—
- (a) shall summon him to appear before the court; and
 - (b) if he does not appear in answer to the summons, may issue a warrant for his arrest;
- and the court shall not amend a relevant order under this Part of this Schedule unless the offender expresses his willingness to comply with the requirements of the order as amended.
- (2) This paragraph shall not apply to an order cancelling a requirement of a relevant order or reducing the period of any requirement, or substituting a new petty sessions area or a new place for the one specified in a relevant order.

Commencement Information

I25 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 18 (1) On the making under this Part of this Schedule of an order amending a relevant order, the clerk to the court shall forthwith—
- (a) if the order amends the relevant order otherwise than by substituting a new petty sessions area or a new place for the one specified in the relevant order, give copies of the amending order to the responsible officer;
 - (b) if the order amends the relevant order in the manner excepted by paragraph (a) above, send to the clerk to the justices for the new petty sessions area or, as the case may be, for the petty sessions area in which the new place is situated—
 - (i) copies of the amending order; and
 - (ii) such documents and information relating to the case as he considers likely to be of assistance to a court acting for that area in exercising its functions in relation to the order;
- and in a case falling within paragraph (b) above the clerk to the justices for that area shall give copies of the amending order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of an order are given shall give a copy to the offender and to the person in charge of any institution in which the offender is or was required by the order to reside.

Commencement Information

I26 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 3

Section 16.

RECIPROCAL ENFORCEMENT OF CERTAIN ORDERS

Commencement Information

I27 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

PART I

TRANSFER OF COMMUNITY ORDERS TO SCOTLAND OR NORTHERN IRELAND

Commencement Information

I28 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

Probation orders: Scotland

- 1 (1) Where a court considering the making of a probation order is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 2 of the 1973 Act (probation orders) shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the regional or islands council in whose area he resides, or will be residing when the order comes into force.”
- (2) Where a probation order has been made and—
- (a) a magistrates’ court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Scotland; and
 - (b) it appears to the court that suitable arrangements for his supervision can be made by the regional or islands council in whose area he proposes to reside or is residing,
- the power of the court to amend the order under Part IV of Schedule 2 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.
- (3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, Schedule 1A to the 1973 Act (additional requirements in probation orders) shall have effect as if—
- (a) any reference to a probation officer were a reference to an officer of the regional or islands council in whose area the offender resides or will be residing when the order or amendment comes into force;
 - (b) the reference in paragraph 2(5) to the probation committee for the area in which the premises are situated were a reference to the regional or islands council for that area;
 - (c) paragraph 3 (requirements as to attendance at probation centre) were omitted; and

Status: Point in time view as at 03/11/1994.

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- (d) the reference in paragraph 5(3) to a mental hospital were a reference to a hospital within the meaning of the ^{M2}Mental Health (Scotland) Act 1984, not being a State hospital within the meaning of that Act.
- (4) A probation order made or amended in accordance with this paragraph shall—
- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force; and
 - (b) specify as the appropriate court for the purposes of subsection (2) of section 183 or 384 of the ^{M3}Criminal Procedure (Scotland) Act 1975 a court of summary jurisdiction (which, in the case of an offender convicted on indictment, shall be the sheriff court) having jurisdiction in the locality specified under paragraph (a) above.

Commencement Information

I29 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M2 1984 c. 36.

M3 1975 c. 21.

Probation orders: Northern Ireland

- 2 (1) Where a court considering the making of a probation order is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 2 of the 1973 Act shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland.”
- (2) Where a probation order has been made and—
- (a) a magistrates’ court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Northern Ireland; and
 - (b) it appears to the court that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland,
- the power of the court to amend the order under Part IV of Schedule 2 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.
- (3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, Schedule 1A to the 1973 Act shall have effect as if—
- (a) any reference to a probation officer were a reference to a probation officer assigned to the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force;

Status: Point in time view as at 03/11/1994.

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- (b) the reference in paragraph 2(5) to the probation committee for the area in which the premises are situated were a reference to the Probation Board for Northern Ireland;
 - (c) references in paragraph 3 to a probation centre were references to a day centre within the meaning of section 2B of the ^{M4}Probation Act (Northern Ireland) 1950; and
 - (d) the reference in paragraph 5(3) to treatment as a resident patient in a mental hospital were a reference to treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health and Social Services for Northern Ireland for the purposes of section 2 of the ^{M5}Probation Act (Northern Ireland) 1950.
- (4) A probation order made or amended in accordance with this paragraph shall specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force.

Commencement Information

I30 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M4 1950 c. 7. (N.I.).

M5 1950 c. 7. (N.I.).

Community service orders: Scotland

- 3 (1) Where a court considering the making of a community service order is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 14 of the 1973 Act shall have effect as if for subsection (2A) there were substituted the following subsection—
- “(2A) A court shall not make a community service order in respect of any offender unless—
- (a) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender resides, or will be residing when the order comes into force, to perform work under community service orders made under section 1 of the Community Service by Offenders (Scotland) Act 1978; and
 - (b) it appears to the court that provision can be made for him to perform work under those arrangements.”
- (2) Where a community service order has been made and—
- (a) a magistrates’ court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Scotland;
 - (b) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender

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- proposes to reside or is residing to perform work under community service orders made under section 1 of the Community Service by Offenders (Scotland) Act 1978; and
- (c) it appears to the court that provision can be made for him to perform work under the community service order under those arrangements,
- it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.
- (3) A community service order made or amended in accordance with this paragraph shall—
- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force; and
- (b) require the regional or islands council in whose area the locality specified under paragraph (a) above is situated to appoint or assign an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the local authority officer by the Community Service by Offenders (Scotland) Act 1978.

Commencement Information

I31 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Community service orders: Northern Ireland

- 4 (1) Where a court considering the making of a community service order is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 14 of the 1973 Act shall have effect—
- (a) in the case of an offender aged sixteen, as if the reference in subsection (1A) to 240 hours were a reference to 120 hours; and
- (b) in any case, as if for subsection (2A) there were substituted the following subsection—
- “(2A) A court shall not make a community service order in respect of any offender unless it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order.”
- (2) Where a community service order has been made and—
- (a) a magistrates’ court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Northern Ireland; and
- (b) it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order,
- it may amend the order by specifying that the unpaid work required to be performed by the order be so performed and, where the offender is aged sixteen, by making any such reduction in the aggregate number of hours specified in the order as is required by sub-paragraph (1)(a) above.
- (3) A community service order made or amended in accordance with this paragraph shall—

Status: Point in time view as at 03/11/1994.

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- (a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force; and
- (b) require the Probation Board for Northern Ireland to select an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the relevant officer by the ^{M6}Treatment of Offenders (Northern Ireland) Order 1976.

Commencement Information

I32 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M6 S.I. 1976/226 (N.I. 4).

Combination orders: Scotland

- 5 Paragraphs 1 and 3 above shall apply in relation to combination orders—
- (a) in so far as they impose such a requirement as is mentioned in paragraph (a) of subsection (1) of section 11 of this Act, as if they were probation orders; and
 - (b) in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were community service orders.

Commencement Information

I33 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

General

- 6
- (1) Where a community order is made or amended in any of the circumstances specified in this Schedule, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
 - (2) Where a community order is made or amended in any of the circumstances specified in this Schedule, then, subject to the following provisions of this paragraph—
 - (a) the order shall be treated as if it were a corresponding order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time; and
 - (b) the legislation relating to such orders which has effect in that part of the United Kingdom shall apply accordingly.
 - (3) Before making or amending a community order in those circumstances the court shall explain to the offender in ordinary language—

Status: Point in time view as at 03/11/1994.

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- (a) the requirements of the legislation relating to corresponding orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time;
 - (b) the powers of the home court under that legislation, as modified by this paragraph; and
 - (c) its own powers under this paragraph,
- and an explanation given in accordance with this sub-paragraph shall be sufficient without the addition of an explanation under section 2(3) or 14(5) of the 1973 Act.
- (4) The home court may exercise in relation to the community order any power which it could exercise in relation to a corresponding order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in that part, except the following, namely—
- (a) in the case of a probation order or a combination order, a power conferred by section 186(2)(b), 187, 387(2)(b) or 388 of, or paragraph 1 of Schedule 5 to, the ^{M7}Criminal Procedure (Scotland) Act 1975;
 - (b) in the case of a probation order, a power conferred by section 4(3)(d) or (4B) (d) or 6 of, or paragraph 1 of Schedule 2 to, the ^{M8}Probation Act (Northern Ireland) 1950; and
 - (c) in the case of a community service order—
 - (i) a power conferred by section 4(2)(b) or 5(1)(c) or (d) of the ^{M9}Community Service by Offenders (Scotland) Act 1978;
 - (ii) a power conferred by Article 9(3)(a) or (b) or (5)(b) or 10 of the ^{M10}Treatment of Offenders (Northern Ireland) Order 1976; or
 - (iii) a power to vary the order by substituting for the number of hours of work specified in it any greater number than the court which made the order could have specified.
- (5) If at any time while legislation relating to corresponding orders which has effect in Scotland or Northern Ireland applies by virtue of sub-paragraph (2) above to a community order made in England and Wales—
- (a) it appears to the home court—
 - (i) if that court is in Scotland, on evidence on oath from the local authority officer concerned; and
 - (ii) if it is in Northern Ireland, upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order,that the offender has failed to comply with any of the requirements of the legislation applicable to the order; or
 - (b) it appears to the home court on the application of the offender or—
 - (i) if that court is in Scotland, of the local authority officer concerned; and
 - (ii) if it is in Northern Ireland, of the probation officer concerned,that it would be in the interests of justice for a power conferred by paragraph 7 or 8 of Schedule 2 to this Act to be exercised,
- the home court may require the offender to appear before the court which made the order.

Status: Point in time view as at 03/11/1994.

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- (6) Where an offender is required by virtue of sub-paragraph (5) above to appear before the court which made the community order, that court—
- (a) may issue a warrant for his arrest; and
 - (b) may exercise any power which it could exercise in respect of the community order if the offender resided in England and Wales,
- and any enactment relating to the exercise of such powers shall have effect accordingly, and with any reference to the responsible officer being construed as a reference to the local authority or probation officer concerned.
- (7) Where an offender is required by virtue of paragraph (a) of sub-paragraph (5) above to appear before the court which made the community order—
- (a) the home court shall send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and
 - (b) a certificate purporting to be signed by the clerk of the home court shall be admissible as evidence of the failure before the court which made the order.
- (8) In this paragraph—
- “corresponding order”, in relation to a combination order, means a probation order including such a requirement as is mentioned in subsection (5A) of section 183 or 384 of the ^{M11}Criminal Procedure (Scotland) Act 1975;
- “home court” means—
- (a) if the offender resides in Scotland, or will be residing there at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside; and
 - (b) if he resides in Northern Ireland, or will be residing there at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside;
- “the local authority officer concerned”, in relation to an offender, means the officer of a regional or islands council responsible for his supervision or, as the case may be, discharging in relation to him the functions assigned by the ^{M12}Community Service by Offenders (Scotland) Act 1978;
- “the probation officer concerned”, in relation to an offender, means the probation officer responsible for his supervision or, as the case may be, discharging in relation to him the functions conferred by Part III of the ^{M13}Treatment of Offenders (Northern Ireland) Order 1976;
- “the relevant time” means the time when the order or the amendment to it comes into force.

Commencement Information

I34 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M7 1975 c. 21.

M8 1950 c. 7. (N.I.).

M9 1978 c. 49.

M10 SI. 1976/226 (N.I. 4).

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- M11** 1975 c. 21.
- M12** 1978 c. 49.
- M13** S.I. 1976/226 (N.I. 4).

PART II

TRANSFER OF CORRESPONDING ORDERS FROM SCOTLAND

Commencement Information

- I35** Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

Probation orders

- 7 (1) The Criminal Procedure (Scotland) Act 1975 shall be amended as follows.
- (2) In each of sections 183 and 384 (which provide, respectively, for probation orders in solemn and in summary proceedings), in subsection (1A) for the words “by the local authority in whose area he resides or is to reside” there shall be substituted the following paragraphs—
- “(a) in a case other than that mentioned in paragraph (b) below, by the local authority in whose area he resides or is to reside; or
 - (b) in a case where, by virtue of section 188(1) of this Act, subsection (2) of this section would not apply, by the probation committee for the area which contains the petty sessions area which would be named in the order”.
- (3) In each of sections 188 and 389 (which provide, respectively, for probation orders relating to persons residing in England being made in solemn and in summary proceedings)—
- (a) in subsection (1)—
 - (i) for the words “that the offender shall perform unpaid work” there shall be substituted the words “which, while corresponding to a requirement mentioned in paragraph 2 or 3 of Schedule 1A to the ^{M14}Powers of Criminal Courts Act 1973, would if included in a probation order made under that Act fail to accord with a restriction as to days of presentation, participation or attendance mentioned in paragraph 2(4)(a) or (6)(a), or as the case may be 3(3)(a), of that Schedule”;
 - (ii) for the word “17” there shall be substituted the word “16”
 - (iii) the word “and”, where it secondly occurs, shall cease to have effect; and
 - (iv) at the end there shall be added the words “; and where the order includes a requirement that the probationer perform unpaid work for a number of hours, the number specified shall not exceed one hundred.”;
 - (b) in subsection (2)—

Status: Point in time view as at 03/11/1994.

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- (i) for the words “that the probationer has attained the age of 17 years and proposes to reside in or is residing in England” there shall be substituted the following paragraphs—
 - “(a) that the probationer has attained the age of 16 years;
 - (b) that he proposes to reside, or is residing, in England; and
 - (c) that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside”; and
- (ii) after the word “section”, where it secondly occurs, there shall be inserted the words “or to vary any requirement for performance of unpaid work so that such hours as remain to be worked do not exceed one hundred”;
- (c) in subsection (3)—
 - (i) in paragraph (a), for the words “section 3(2) of” and “section 3 of” there shall be substituted, respectively, the words “paragraph 5(3) of Schedule 1A to” and “paragraph 5 of Schedule 1A to”; and
 - (ii) in paragraph (b), for the words “subsections (4) to (6) of section 3 of” there shall be substituted the words “sub-paragraphs (5) to (7) of paragraph 5 of Schedule 1A to”;
- (d) in subsection (4), for the words from “the Powers” to the end of the proviso there shall be substituted the words “Schedule 2 to the Criminal Justice Act 1991 shall apply to the order—
 - (a) except in the case mentioned in paragraph (b) below, as if that order were a probation order made under section 2 of the Powers of Criminal Courts Act 1973; and
 - (b) in the case of an order which contains a requirement such as is mentioned in subsection (5A) of section 183 or 384 of this Act, as if it were a combination order made under section 11 of the said Act of 1991:

Provided that Part III of that Schedule shall not so apply; and sub-paragraphs (3) and (4) of paragraph 3 of that Schedule shall so apply as if for the first reference in the said sub-paragraph (3) to the Crown Court there were substituted a reference to a court in Scotland and for the other references in those sub-paragraphs to the Crown Court there were substituted references to the court in Scotland.”; and

- (e) in subsection (5), for the words from “for which” to “this section” there shall be substituted the words “named in a probation order made or amended under this section that the person to whom the order relates”.

- (4) Sections 189 and 390 (which make further provision as to probation orders in, respectively, solemn and summary proceedings) shall cease to have effect.

Commencement Information

I36 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M14 1973 c. 62.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Community service orders

- 8 Section 6 of the ^{M15}Community Service by Offenders (Scotland) Act 1978 (community service orders relating to persons residing in England and Wales) shall be amended as follows—
- (a) in subsection (1)(a), for the words from “for paragraphs” to the end of paragraph (b) as substituted in section 1(2) of that Act there shall be substituted the words “, in subsection (2), paragraph (b) were omitted and for paragraph (d) there were substituted the following paragraph—”; and
 - (b) in subsection (2), paragraph (b) shall cease to have effect.

Commencement Information

I37 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M15 1978 c. 49.

Supervision requirements

- 9 Section 72 of the ^{M16}Social Work (Scotland) Act 1968 (supervision of children moving to England and Wales or to Northern Ireland) shall be amended as follows—
- (a) in subsection (1)(b), for the words “to a juvenile court acting for the petty sessions area” there shall be substituted the following sub-paragraphs—
 - “(i) in the case of residence in England and Wales, to a youth court acting for the petty sessions area (within the meaning of the Children and Young Persons Act 1969);
 - (ii) in the case of residence in Northern Ireland, to a juvenile court acting for the petty sessions district (within the meaning of Part III of the Magistrates’ Courts (Northern Ireland) Order 1981).”;
 - (b) in subsection (1A)—
 - (i) for the words “The juvenile court in England or Wales” there shall be substituted the words “A youth court”;
 - (ii) after the word “12” there shall be inserted the words “, 12A, 12AA, 12B or 12C”; and
 - (iii) paragraph (a), and the word “and” immediately following that paragraph, shall cease to have effect;
 - (c) in subsection (2), for the words “The juvenile court in Northern Ireland” there shall be substituted the words “A juvenile court”;
 - (d) in subsection (3), after the words “by a” there shall be inserted the words “youth court or, as the case may be”; and
 - (e) subsection (4) shall cease to have effect.

Status: Point in time view as at 03/11/1994.

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Commencement Information

I38 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M16 1968 c. 49.

PART III

TRANSFER OF PROBATION ORDERS FROM NORTHERN IRELAND

Commencement Information

I39 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

- 10 (1) Where, in the case of an offender of or over the age of 16 years, a court in Northern Ireland considering the making of a probation order is satisfied that the offender resides in England and Wales, or will be residing there when the order comes into force, section 1 of the ^{M17}Probation Act (Northern Ireland) 1950 (probation orders) shall have effect as if after subsection (1) there were inserted the following subsection—

“(1A) A court shall not make a probation order in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside.”

- (2) Where a probation order has been made by a court in Northern Ireland and—
- (a) a court of summary jurisdiction acting for the petty sessions district in Northern Ireland for the time being specified in the order is satisfied that the offender has attained the age of 16 years and proposes to reside or is residing in England and Wales; and
 - (b) it appears to the court that suitable arrangements for his supervision can be made by the probation committee for the area which contains the petty sessions area in which he resides or will reside,

the power of the court to amend the order under Schedule 2 to the ^{M18}Probation Act (Northern Ireland) 1950 shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.

- (3) Where a court is considering the making or amendment of a probation order in accordance with this paragraph, sections 2, 2A and 2B of the ^{M19}Probation Act (Northern Ireland) 1950 shall have effect as if—
- (a) any reference to a probation officer were a reference to a probation officer assigned to the petty sessions area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force;
 - (b) the reference in section 2(2) to treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a

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- hospital within the meaning of the ^{M20}Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health and Social Services for Northern Ireland for the purposes of that section were a reference to treatment as a resident patient in a mental hospital within the meaning of paragraph 5 of Schedule 1A to the 1973 Act;
- (c) the reference in section 2A(5) to the Probation Board for Northern Ireland were a reference to the probation committee for the area in which the premises are situated; and
 - (d) references in section 2B to a day centre were references to a probation centre within the meaning of paragraph 3 of Schedule 1A to the 1973 Act.
- (4) A probation order made or amended in accordance with this paragraph shall specify the petty sessions area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force.

Commencement Information

I40 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M17 1950 c. 7. (N.I.).

M18 1950 c. 7. (N.I.).

M19 1950 c. 7. (N.I.).

M20 S.I. 1972/1265 (N.I. 14).

- 11 (1) Where a probation order is made or amended in any of the circumstances specified in paragraph 10 above, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
- (2) Where a probation order is made or amended in any of the circumstances specified in paragraph 10 above, then, subject to the following provisions of this paragraph—
- (a) the order shall be treated as if it were a probation order made in England and Wales; and
 - (b) the provisions relating to such orders of the 1973 Act and Schedule 2 to this Act (except paragraphs 9 and 10) shall apply accordingly.
- (3) Before making or amending a probation order in the circumstances specified in paragraph 10 above the court shall explain to the offender in ordinary language—
- (a) the requirements of the 1973 Act relating to probation orders;
 - (b) the powers of the home court under that Act and Schedule 2 to this Act, as modified by this paragraph; and
 - (c) its own powers under this paragraph,
- and an explanation given in accordance with this sub-paragraph shall be sufficient without the addition of an explanation under section 1(5) of the ^{M21}Probation Act (Northern Ireland) 1950.
- (4) The home court may exercise in relation to the probation order any power which it could exercise in relation to a probation order made by a court in England and Wales by virtue of the 1973 Act, except a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to this Act.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) If at any time while the 1973 Act applies by virtue of sub-paragraph (2) above to a probation order made in Northern Ireland it appears to the home court—
- (a) on information to a justice of the peace acting for the petty sessions area for the time being specified in the order, that the offender has failed to comply with any of the requirements of the 1973 Act applicable to the order; or
 - (b) on the application of the offender or the probation officer, that it would be in the interests of justice for the power conferred by paragraph 1 of Schedule 2 to the Probation Act (Northern Ireland) 1950 to be exercised,
- the home court may require the offender to appear before the court which made the order.
- (6) Where an offender is required by virtue of sub-paragraph (5) above to appear before the court which made the probation order, that court—
- (a) may issue a warrant for his arrest; and
 - (b) may exercise any power which it could exercise in respect of the probation order if the offender resided in Northern Ireland,
- and section 4(2) to (7) of the Probation Act (Northern Ireland) 1950 shall have effect accordingly.
- (7) Where an offender is required by virtue of paragraph (a) of sub-paragraph (5) above to appear before the court which made the probation order—
- (a) the home court shall send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and
 - (b) a certificate purporting to be signed by the clerk of the home court shall be admissible as evidence of the failure before the court which made the order.
- (8) In this paragraph “home court” means, if the offender resides in England and Wales, or will be residing there at the time when the order or the amendment to it comes into force, the court of summary jurisdiction acting for the petty sessions area in which he resides or proposes to reside.

Commencement Information

I41 Sch. 3 (paras. 1 - 11) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), Sch. 2.

Marginal Citations

M21 1950 c. 7. (N.I.).

SCHEDULE 4

Section 17(3).

INCREASE OF CERTAIN MAXIMA

Commencement Information

I42 Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART I

SUBSTITUTION OF OTHER AMOUNTS

Commencement Information

I43 Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

(1) Provision	(2) General description	(3) Present amount	(4) New amount
In Schedule 5A to the Army Act 1955 and the Air Force Act 1955, paragraph 11(2).	Maximum amount of compensation order.	£2,000	£5,000
Section 23(3) of the Attachment of Earnings Act 1971.	Maximum judge's fine in High Court or county court.	£100	£250
Section 27(3) of the 1973 Act.	Maximum fine for failure to comply with suspended sentence supervision order.	£400	£1,000
Section 8(1) of the Armed Forces Act 1976.	Maximum fine awarded by Standing Civilian Courts.	£2,000	£5,000
Section 40(1) of the 1980 Act.	Maximum amount of compensation order.	£2,000	£5,000
Section 63(3)(a) of that Act.	Maximum fine for disobedience of order other than for payment of money.	£2,000	£5,000
Section 97(4) of that Act.	Maximum fine for refusal to give evidence.	£1,000	£2,500
Section 12(2) of the Contempt of Court Act 1981.	Maximum fine for contempt in face of magistrates' court.	£1,000	£2,500
Section 14(2) of that Act.	Maximum fine for contempt in an inferior court.	£1,000	£2,500
Section 55(2) of the County Courts Act 1984.	Maximum fine for neglecting witness summons.	£400	£1,000
Section 118 (1) of that Act.	Maximum fine for contempt of court.	£1,000	£2,500

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Section 10(1) and (2) and 21(5) of the Coroners Act 1988.	Maximum coroner's fine for refusal to give evidence etc.	£400	£1,000
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PART II

SUBSTITUTION OF LEVELS ON STANDARD SCALE

Commencement Information

I44 Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Section 33(1)(a) of the 1980 Act.	Maximum fine on summary conviction of offence tried in pursuance of section 22 of that Act (certain offences triable either way to be tried summarily if value involved is small).	£1,000	Level 4
Section 34(3)(b) of that Act.	Maximum fine on summary conviction where statute provides no express power to fine.	£400	Level 3

PART III

SUBSTITUTION OF STATUTORY MAXIMUM

Commencement Information

I45 Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

(1) Provision	(2) General description	(3) Present amount
Section 6(8) of the Whaling Industry (Regulation) Act 1934.	Maximum fine on summary conviction for failure to keep or falsify records.	£1,000
Section 9(1) of that Act.	Maximum fine on summary conviction for forgery of certain documents.	£1,000
Section 11(1)(c) of the Sea Fisheries (Conservation) Act 1967.	Maximum fine on summary conviction for an offence under section 1, 2, 4(7) or	£1,000

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Section 16(1A) of that Act.	(7A), 4A(7) or (8), 6(5) or (5A)(b) or 7(3) of that Act. Maximum fine on summary conviction for assaulting or obstructing officer exercising enforcement powers.	£1,000
Section 5(4) of the Sea Fisheries Act 1968.	Maximum fine on summary conviction for contravening order regulating fishing operations.	£1,000

PART IV

PROVISIONS SUBSTITUTED FOR SCHEDULE 6A TO 1980 ACT

Commencement Information

146 Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

“SCHEDULE 6A

FINES THAT MAY BE ALTERED UNDER SECTION 143

Enactment	Maximum fine
CHILDREN AND YOUNG PERSONS ACT 1969 (c.54)Section 15(3)(a) (failure to comply with supervision order)	£1,000
Section 15(5)(b) and (c) (failure to comply with supervision order)	£5,000
ATTACHMENT OF EARNINGS ACT 1971 (c.32)Section 23(3) (judge’s fine)	£250
POWERS OF CRIMINAL COURTS ACT 1973 (c.62)Section 27(3) (failure to comply with suspended sentence supervision order)	£1,000
MAGISTRATES’ COURTS ACT 1980 (c.43)Section 63(3)(a) (disobedience of orders other than payment of money)	£5,000
Section 97(4) (refusal to give evidence etc.)	£2,500
CONTEMPT OF COURT ACT 1981 (c.49)Section 12(2) (contempt in face of magistrates’ court)	£2,500
Section 14(2) (contempt in an inferior court)	£2,500
Enactment	Maximum fine

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

CRIMINAL JUSTICE ACT 1982 (c.48)Section 19(3) (failure to comply with attendance centre order or attendance centre rules)	£1,000
COUNTY COURTS ACT 1984 (c.28)Section 55(2) (neglect or refusal to give evidence)	£1,000
Section 118(1) (contempt in face of court)	£2,500
CORONERS ACT 1988 (c.13)Sections 10(1) and (2) and 21(5) (refusal to give evidence etc.)	£1,000
CRIMINAL JUSTICE ACT 1991 (c.53)In Schedule 2, paragraphs 3(1) and 4(1) (failure to comply with probation, community service, curfew or combination order)	£1,000 ⁷ .

^{F8}PART V

OTHER AMENDMENTS

Textual Amendments

F8 Sch. 4 Pt. V repealed (20.9.1993) by 1993 c. 36, ss. 65(3)(4), 79(14), Sch. 3 para. 1(2), Sch. 6 Pt.I; S.I. 1993/1968, art. 2(2), Sch.2, Appendix.

Commencement Information

I47 Sch. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

SCHEDULE 5

Section 32(7).

THE PAROLE BOARD

Commencement Information

I52 Sch. 5 (paras. 1 - 6) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Membership

- The Board shall consist of a chairman and not less than four other members appointed by the Secretary of State.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I53 Sch. 5 (paras. 1 - 6) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

^{F9} Membership

Textual Amendments

F9 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

- 2 The Board shall include among its members—
- (a) a person who holds or has held judicial office;
 - (b) a registered medical practitioner who is a psychiatrist;
 - (c) a person appearing to the Secretary of State to have knowledge and experience of the supervision or after-care of discharged prisoners; and
 - (d) a person appearing to the Secretary of State to have made a study of the causes of delinquency or the treatment of offenders.

Commencement Information

I54 Sch. 5 (paras. 1 - 6) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), Sch. 2.

^{F10} Payments to members

Textual Amendments

F10 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art. 2 (S.I. 1996/1530 having been revoked by that instrument)

- 3 A member of the Board—
- (a) shall hold and vacate office in accordance with the terms of his appointment;
 - (b) may resign his office by notice in writing addressed to the Secretary of State;
- and a person who ceases to hold office as a member of the Board shall be eligible for reappointment.

Commencement Information

I55 Sch. 5 (paras. 1 - 6) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Remuneration and allowances

- 4 There shall be paid to the members of the Board such remuneration and allowances as the Secretary of State may with the consent of the Treasury determine.

Commencement Information

I56 Sch. 5 (paras. 1 - 6) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

^{F11}Staff

Textual Amendments

F11 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

- 5 The expenses of the Board under paragraph 4 above and any other expenses incurred by the Board in discharging its functions under Part II of this Act shall be defrayed by the Secretary of State.

Commencement Information

I57 Sch. 5 (paras. 1 - 6) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Reports

- 6 The Board shall as soon as practicable after the end of each year make to the Secretary of State a report on the performance of its functions during that year; and the Secretary of State shall lay a copy of the report before Parliament.

Commencement Information

I58 Sch. 5 (paras. 1 - 6) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

VALID FROM 01/07/1996

^{F12}Financial provisions

Textual Amendments

F12 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F137** (1) The Secretary of State shall pay to the Board—
- (a) any expenses incurred or to be incurred by the Board by virtue of paragraph 3 or 5; and
 - (b) with the consent of the Treasury, such sums as he thinks fit for enabling the Board to meet other expenses.
- (2) Any sums required by the Secretary of State for making payments under subparagraph (1) shall be paid out of money provided by Parliament.

Textual Amendments

- F13** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

VALID FROM 01/07/1996

F14 Authentication of Board's seal

Textual Amendments

- F14** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

- F158** The application of the seal of the Board shall be authenticated by the signature of the Chairman or some other person authorised for the purpose.

Textual Amendments

- F15** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art. 2 (S.I. 1996/1530 having been revoked by that instrument)

VALID FROM 01/07/1996

F16 Presumption of authenticity of documents issued by Board

Textual Amendments

- F16** Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), Sch. 10 para.70; S.I. 1996/1608, art.2 (S.I. 1996/1530 having been revoked by that instrument)

- F179** Any document purporting to be an instrument issued by the Board and to be duly executed under the seal of the Board or to be signed on behalf of the Board shall

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

Textual Amendments

F17 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art. 2** (S.I. 1996/1530 having been revoked by that instrument)

VALID FROM 01/07/1996

^{F18}Accounts and audit

Textual Amendments

F18 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

- ^{F19}10 (1) It shall be the duty of the Board—
- (a) to keep proper accounts and proper records in relation to the accounts;
 - (b) to prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
 - (c) to send copies of each such statement to the Secretary of State and the Comptroller and Auditor General not later than 31st August next following the end of the financial year to which the statement relates.
- (2) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts sent to him by the Board and shall lay a copy of every such statement and of his report before each House of Parliament.
- (3) In this paragraph, “financial year” means the period beginning with the date on which the Board is incorporated and ending with the next following 31st March, and each successive period of twelve months.

Textual Amendments

F19 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2** (S.I. 1996/1530 having been revoked by that instrument)

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/07/1996

F20 Reports

Textual Amendments

F20 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art.2**

F21¹¹ The Board shall as soon as practicable after the end of each financial year make to the Secretary of State a report on the performance of its functions during the year; and the Secretary of State shall lay a copy of the report before Parliament.

Textual Amendments

F21 Sch. 5 substituted (1.7.1996) by 1994 c. 33, s. 168(2), **Sch. 10 para.70**; S.I. 1996/1608, **art. 2** (S.I. 1996/1530 having been revoked by that instrument)

F22 SCHEDULE 6

Section 53(5).

NOTICES OF TRANSFER: PROCEDURE IN LIEU OF COMMITTAL

Extent Information

E1 Schedule 6 extends to England and Wales only except as mentioned in s. 102(4)-(6).

Textual Amendments

F22 Sch. 6 repealed (prosp.) by Criminal Justice Act 2003 (c. 44), ss. 41, 332, 336, Sch. 3 Pt. 2 para. 62(3), **Sch. 37**

Commencement Information

I59 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Contents of notice of transfer

- (1) A notice of transfer shall specify the proposed place of trial; and in selecting that place the Director of Public Prosecutions shall have regard to the considerations to which a magistrates' court committing a person for trial is required by section 7 of the 1980 Act to have regard when selecting the place at which he is to be tried.
- (2) A notice of transfer shall specify the charge or charges to which it relates and include or be accompanied by such additional material as regulations under paragraph 4 below may require.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I60 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Remand

- 2 (1) If a magistrates' court has remanded in custody a person to whom a notice of transfer relates, it shall have power, subject to section 4 of the ^{M22}Bail Act 1976 and regulations under section 22 of the ^{M23}Prosecution of Offences Act 1985—
- (a) to order that he shall be safely kept in custody until delivered in due course of law; or
 - (b) to release him on bail in accordance with the Bail Act 1976, that is to say, by directing him to appear before the Crown Court for trial.
- (2) Where—
- (a) a person's release on bail under paragraph (b) of sub-paragraph (1) above is conditional on his providing one or more sureties; and
 - (b) in accordance with subsection (3) of section 8 of the Bail Act 1976, the court fixes the amount in which a surety is to be bound with a view to his entering into his recognisance subsequently in accordance with subsections (4) and (5) or (6) of that section,
- the court shall in the meantime make an order such as is mentioned in paragraph (a) of that sub-paragraph.
- (3) If the conditions specified in sub-paragraph (4) below are satisfied, a court may exercise the powers conferred by sub-paragraph (1) above in relation to a person charged without his being brought before it in any case in which by virtue of subsection (3A) of section 128 of the 1980 Act it would have the power further to remand him on an adjournment such as is mentioned in that subsection.
- (4) The conditions referred to in sub-paragraph (3) above are—
- (a) that the person in question has given his written consent to the powers conferred by sub-paragraph (1) above being exercised without his being brought before the court; and
 - (b) that the court is satisfied that, when he gave his consent, he knew that the notice of transfer had been issued.
- (5) Where a notice of transfer is given after a person to whom it relates has been remanded on bail to appear before a magistrates' court on an appointed day, the requirement that he shall so appear shall cease on the giving of the notice unless the notice states that it is to continue.
- (6) Where that requirement ceases by virtue of sub-paragraph (5) above, it shall be the duty of the person in question to appear before the Crown Court at the place specified by the notice of transfer as the proposed place of trial or at any place substituted for it by a direction under section 76 of the ^{M24}Supreme Court Act 1981.
- (7) If, in a case where the notice states that the requirement mentioned in sub-paragraph (5) above is to continue, a person to whom the notice relates appears before the magistrates' court, the court shall have—

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the powers and duties conferred on a magistrates' court by sub-paragraph (1) above but subject as there provided; and
- (b) power to enlarge, in the surety's absence, a recognisance conditioned in accordance with section 128(4)(a) of the 1980 Act so that the surety is bound to secure that the person charged appears also before the Crown Court.

Commencement Information

I61 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Marginal Citations

M22 1976 c. 63.
M23 1985 c. 23.
M24 1981 c. 54.

Witnesses

- 3 For the purposes of the ^{M25}Criminal Procedure (Attendance of Witnesses) Act 1965—
- (a) any magistrates' court for the petty sessions area for which the court from which a case was transferred sits shall be treated as examining magistrates; and
 - (b) a person indicated in the notice of transfer as a proposed witness shall be treated as a person who has been examined by the court.

Commencement Information

I62 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Marginal Citations

M25 1965 c. 69.

Regulations

- 4 (1) The Attorney General—
- (a) shall by regulations make provision requiring a copy of a notice of transfer, together with a statement of the evidence on which any charge to which it relates is based, to be given—
 - (i) to any person to whom the notice of transfer relates; and
 - (ii) to the Crown Court sitting at the place specified by the notice of transfer as the proposed place of trial; and
 - (b) may by regulations make such further provision in relation to notices of transfer, including provision as to the duties of the Director of Public Prosecutions in relation to such notices, as appears to him to be appropriate.
- (2) The power 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.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I63 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Applications for dismissal

- 5
- (1) Where a notice of transfer has been given, any person to whom the notice relates may, at any time before he is arraigned (and whether or not an indictment has been preferred against him), apply orally or in writing to the Crown Court sitting at the place specified by the notice of transfer as the proposed place of trial for the charge, or any of the charges, in the case to be dismissed.
 - (2) The judge shall dismiss a charge (and accordingly quash a count relating to it in any indictment preferred against the applicant) which is the subject of any such application if it appears to him that the evidence against the applicant would not be sufficient for a jury properly to convict him.
 - (3) No oral application may be made under sub-paragraph (1) above unless the applicant has given the Crown Court mentioned in that sub-paragraph written notice of his intention to make the application.
 - (4) Oral evidence may be given on such an application only with the leave of the judge or by his order; and the judge shall give leave or make an order only if it appears to him, having regard to any matters stated in the application for leave, that the interests of justice require him to do so.
 - (5) No leave or order under sub-paragraph (4) above shall be given or made in relation to oral evidence from a child (within the meaning of section 53 of this Act) who is alleged—
 - (a) to be a person against whom an offence to which the notice of transfer relates was committed; or
 - (b) to have witnessed the commission of such an offence.
 - (6) If the judge gives leave permitting, or makes an order requiring, a person to give oral evidence, but that person does not do so, the judge may disregard any document indicating the evidence that he might have given.
 - (7) Dismissal of the charge, or all the charges, against the applicant shall have the same effect as a refusal by examining magistrates to commit for trial, except that no further proceedings may be brought on a dismissed charge except by means of the preferment of a voluntary bill of indictment.
 - (8) Crown Court Rules may make provision for the purposes of this paragraph and, without prejudice to the generality of this sub-paragraph, may make provision—
 - (a) as to the time or stage in the proceedings at which anything required to be done is to be done (unless the court grants leave to do it at some other time or stage);
 - (b) as to the contents and form of notices or other documents;
 - (c) as to the manner in which evidence is to be submitted; and
 - (d) as to persons to be served with notices or other material.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C4** Sch. 6 para. 5 modified (10.4.1995) by 1994 c. 33, ss. 34(2)(b)(ii)(4)-(7), 36(2)(b)(ii)(3)-(8), 37(2)(b)(ii)(3)-(7), 38; S.I. 1995/721, art. 2, Sch.
Sch. 6 para. 5 modified (3.2.1995) by 1984 c. 60, s. 62(10)(aa)(ii) (as inserted (3.2.1995) by 1994 c. 33, s. 168(3), Sch. 9 para.24; S.I. 1995/127, art. 2(1), Sch. 1 Appendix.)

Commencement Information

- I64** Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Reporting restrictions

- 6 (1) Except as provided by this paragraph, it shall not be lawful—
- (a) to publish in Great Britain a written report of an application under paragraph 5(1) above; or
 - (b) to include in a relevant programme for reception in Great Britain a report of such an application,
- if (in either case) the report contains any matter other than that permitted by this paragraph.
- (2) An order that sub-paragraph (1) above shall not apply to reports of an application under paragraph 5(1) above may be made by the judge dealing with the application.
- (3) Where in the case of two or more accused one of them objects to the making of an order under sub-paragraph (2) above, the judge shall make the order if, and only if, he is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.
- (4) An order under sub-paragraph (2) above shall not apply to reports of proceedings under sub-paragraph (3) above, but any decision of the court to make or not to make such an order may be contained in reports published or included in a relevant programme before the time authorised by sub-paragraph (5) below.
- (5) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an application under paragraph 5(1) above containing any matter other than that permitted by sub-paragraph (8) below where the application is successful.
- (6) Where—
- (a) two or more persons were jointly charged; and
 - (b) applications under paragraph 5(1) above are made by more than one of them,
- sub-paragraph (5) above shall have effect as if for the words “the application is” there were substituted the words “all the applications are”.
- (7) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an unsuccessful application at the conclusion of the trial of the person charged, or of the last of the persons charged to be tried.
- (8) The following matters may be contained in a report published or included in a relevant programme without an order under sub-paragraph (2) above before the time authorised by sub-paragraphs (5) and (6) above, that is to say—

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- (a) the identity of the court and the name of the judge;
 - (b) the names, ages, home addresses and occupations of the accused and witnesses;
 - (c) the offence or offences, or a summary of them, with which the accused is or are charged;
 - (d) the names of counsel and solicitors engaged in the proceedings;
 - (e) where the proceedings are adjourned, the date and place to which they are adjourned;
 - (f) the arrangements as to bail;
 - (g) whether legal aid was granted to the accused or any of the accused.
- (9) The addresses that may be published or included in a relevant programme under sub-paragraph (8) above are addresses—
- (a) at any relevant time; and
 - (b) at the time of their publication or inclusion in a relevant programme.
- (10) If a report is published or included in a relevant programme in contravention of this paragraph, the following persons, that is to say—
- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
 - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
 - (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of the editor of a newspaper;
- shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) Proceedings for an offence under this paragraph shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney General.
- (12) Sub-paragraph (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports of court proceedings.
- (13) In this paragraph—
- “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;
 - “relevant programme” means a programme included in a programme service (within the meaning of the ^{M26}Broadcasting Act 1990);
 - “relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.

Commencement Information

I65 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M26 1990 c. 42.

Status: Point in time view as at 03/11/1994.

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Avoidance of delay

- 7 (1) Where a notice of transfer has been given in relation to any case—
- (a) the Crown Court before which the case is to be tried; and
 - (b) any magistrates' court which exercises any functions under paragraph 2 or 3 above or section 20(4) of the ^{M27}Legal Aid Act 1988 in relation to the case, shall, in exercising any of its powers in relation to the case, have regard to the desirability of avoiding prejudice to the welfare of any relevant child witness that may be occasioned by unnecessary delay in bringing the case to trial.
- (2) In this paragraph “child” has the same meaning as in section 53 of this Act and “relevant child witness” means a child who will be called as a witness at the trial and who is alleged—
- (a) to be a person against whom an offence to which the notice of transfer relates was committed; or
 - (b) to have witnessed the commission of such an offence.

Commencement Information

I66 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Marginal Citations

M27 1988 c. 34.

Procedures for indictment of offenders

- 8 (1) In subsection (2) of section 2 of the ^{M28}Administration of Justice (Miscellaneous Provisions) Act 1933 (procedures for indictment of offenders), after paragraph (aa), there shall be inserted the following paragraph—
- “(ab) the offence is specified in a notice of transfer under section 53 of the Criminal Justice Act 1991 (violent or sexual offences against children); or”.
- (2) In paragraph (iA) of the proviso to that subsection—
- (a) after the words “paragraph (aa)” there shall be inserted the words “or (ab)”; and
 - (b) for the words “regulations under section 5(9) of the ^{M29}Criminal Justice Act 1987” there shall be substituted the the words “regulations under the relevant provision”.
- (3) At the end of that proviso there shall be inserted the words “and in paragraph (iA) above “the relevant provision” means section 5(9) of the ^{M30}Criminal Justice Act 1987 in a case to which paragraph (aa) above applies, and paragraph 4 of Schedule 6 to the Criminal Justice Act 1991 in a case to which paragraph (ab) above applies”.

Commencement Information

I67 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Marginal Citations

M28 1933 c. 36.

Status: Point in time view as at 03/11/1994.

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M29 1987 c. 38.

M30 1987 c. 38.

Legal aid

- 9 In section 20(4) of the ^{M31}Legal Aid Act 1988 (power of magistrates' court to grant legal aid for Crown Court proceedings), in paragraph (b), after the word "cases)" there shall be inserted the words "or section 53 of the Criminal Justice Act 1991 (transfer of certain cases involving children)".

Commencement Information

I68 Sch. 6 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 2**.

Marginal Citations

M31 1988 c. 34.

SCHEDULE 7

Section 66.

PROVISIONS SUBSTITUTED FOR SECTION 15 OF 1969 ACT

Commencement Information

I69 Sch. 7 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Variation and discharge of supervision orders.

- “15 (1) If while a supervision order is in force in respect of a supervised person it appears to a relevant court, on the application of the supervisor or the supervised person, that it is appropriate to make an order under this subsection, the court may make an order discharging the supervision order or varying it—
- (a) by cancelling any requirement included in it in pursuance of section 12, 12A, 12AA, 12B, 12C or 18(2)(b) of this Act; or
 - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision which could have been included in the order if the court had then had power to make it and were exercising the power.
- (2) The powers of variation conferred by subsection (1) above do not include power—
- (a) to insert in the supervision order, after the expiration of three months beginning with the date when the order was originally made, a requirement in pursuance of section 12B(1) of this Act, unless it is in substitution for such a requirement already included in the order; or
 - (b) to insert in the supervision order a requirement in pursuance of section 12A(3)(b) of this Act in respect of any day which falls outside the period of three months beginning with the date when the order was originally made.

Status: Point in time view as at 03/11/1994.

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- (3) If while a supervision order made under section 7(7) of this Act is in force in respect of a person it is proved to the satisfaction of a relevant court, on the application of the supervisor, that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12, 12A, 12AA, 12C or 18(2) (b) of this Act, the court—
- (a) whether or not it also makes an order under subsection (1) above, may order him to pay a fine of an amount not exceeding £1,000 or, subject to section 16A(1) of this Act, may make an attendance centre order in respect of him; or
 - (b) in the case of a person who has attained the age of eighteen, may (if it also discharges the supervision order) make an order imposing on him any punishment, other than a sentence of detention in a young offender institution, which it could have imposed on him if it—
 - (i) had then had power to try him for the offence in consequence of which the supervision order was made; and
 - (ii) had convicted him in the exercise of that power.
- (4) If while a supervision order is in force in respect of a person it is proved to the court under subsection (3) above that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12A(3)(a) of this Act directing the supervised person to participate in specified activities, the court may, if it also discharges the supervision order, make an order imposing on him any sentence which it could have imposed on him if it—
- (a) had then had power to try him for the offence in consequence of which the supervision order was made; and
 - (b) had convicted him in the exercise of that power.
- (5) In a case falling within subsection (3)(b) or (4) above where the offence in question is of a kind which the court has no power to try, or has no power to try without appropriate consents, the sentence imposed by virtue of that provision—
- (a) shall not exceed that which any court having power to try such an offence could have imposed in respect of it; and
 - (b) where the case falls within subsection (3)(b) above and the sentence is a fine, shall not in any event exceed £5,000; and
 - (c) where the case falls within subsection (4) above, shall not in any event exceed a custodial sentence for a term of six months and a fine of £5,000.
- (6) A court may not make an order by virtue of subsection (4) above unless the court which made the supervision order made a statement under subsection (1) of section 12D of this Act; and for the purposes of this subsection a certificate under that section shall be evidence of the making of the statement to which it relates.
- (7) Section 18 of the Criminal Justice Act 1991 (fixing of certain fines by reference to units) shall apply—
- (a) for the purposes of subsection (3)(a) above as if the failure to comply with the requirement were a summary offence punishable by a fine not exceeding level 3 on the standard scale; and
 - (b) for the purposes of subsections (3)(b) and (4) above as if the failure to comply with the requirement were a summary offence punishable by a fine not exceeding level 5 on that scale;
- and a fine imposed under any of those provisions shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.

Status: Point in time view as at 03/11/1994.

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- (8) In dealing with a supervised person under subsection (3) or (4) above, the court shall take into account the extent to which that person has complied with the requirements of the supervision order.
- (9) If a medical practitioner by whom or under whose direction a supervised person is being treated for his mental condition in pursuance of a requirement included in a supervision order by virtue of section 12B(1) of this Act is unwilling to continue to treat or direct the treatment of the supervised person or is of opinion—
- (a) that the treatment should be continued beyond the period specified in that behalf in the order; or
 - (b) that the supervised person needs different treatment; or
 - (c) that he is not susceptible to treatment; or
 - (d) that he does not require further treatment,
- the practitioner shall make a report in writing to that effect to the supervisor.
- (10) On receiving a report under subsection (9) above, the supervisor shall refer it to a relevant court; and on such a reference, the court may make an order cancelling or varying the requirement.
- (11) In this section “relevant court” means—
- (a) in the case of a supervised person who has not attained the age of eighteen, a youth court;
 - (b) in the case of a supervised person who has attained that age, a magistrates’ court other than a youth court.
- (12) The provisions of this section shall have effect subject to the provisions of section 16 of this Act.”

SCHEDULE 8

Section 68.

AMENDMENTS FOR TREATING PERSONS AGED 17 AS YOUNG PERSONS

Extent Information

E2 [Schedule 8](#) extends to England and Wales only except as mentioned in s. 102(4)-(6).

Commencement Information

I70 [Sch. 8](#) in force at 1.10.1992 see [s. 102\(2\)\(3\)](#) and [S.I. 1992/333, art. 2\(2\)](#), [Sch. 2](#).

Children and Young Persons Act 1933 (c.12)

- 1 (1) Section 31 of the 1933 Act shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted the following subsection—
- “(2) In this section and section 34 of this Act, “young person” means a person who has attained the age of fourteen and is under the age of seventeen years.”
- (2) In sections 46(1) and (1A), 48(2) and 99(1) of that Act, for the words “the age of seventeen” there shall be substituted the words “the age of eighteen”.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In section 107(1) of that Act, for the definition of “young person” there shall be substituted the following definition—

““young person” means a person who has attained the age of fourteen and is under the age of eighteen years.”

Commencement Information

I71 Sch. 8 para. 1 partly in force; para. 1(1) not in force; para. 1(2) in force at 1.10.1992; para. 1(3) in force at 1.10.1992 except for specified purpose; see s. 102(2)(3) and S.I. 1992/333, art. 2(2)(4), Sch. 2.

Prison Act 1952 (c.52)

- 2 In section 43(3) of the 1952 Act (remand centres, young offender institutions etc.), for the words “aged 17 years” there shall be substituted the words “aged 18 years”.

Commencement Information

I72 Sch. 8 para. 2 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Children and Young Persons Act 1963 (c.37)

- 3 In section 29(1) of the Children and Young Persons Act 1963, for the words “the age of seventeen” there shall be substituted the words “the age of eighteen”.

Commencement Information

I73 Sch. 8 para. 3 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Children and Young Persons Act 1969 (c.54)

- 4 (1) Section 29 of the 1969 Act shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted the following subsection—

“(2) In this section “young person” means a person who has attained the age of fourteen and is under the age of seventeen years.”

- (2) In section 70(1) of that Act, for the definition of “young person” there shall be substituted the following definition—

““young person” means a person who has attained the age of fourteen and is under the age of eighteen years;”.

Commencement Information

I74 Sch. 8 para. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

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Rehabilitation of Offenders Act 1974 (c.53)

- 5 In section 5(2) of the Rehabilitation of Offenders Act 1974 (which provides for rehabilitation periods to be reduced by half for young offenders)—
- (a) in paragraph (a), for the words “seventeen years of age” there shall be substituted the words “eighteen years of age”; and
 - (b) in the heading to Table A, for the words “under 17” there shall be substituted the words “under 18”.

Commencement Information

I75 Sch. 8 para. 5 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Magistrates’ Courts Act 1980 (c.43)

- 6 (1) Part I of the 1980 Act (criminal jurisdiction and procedure) shall be amended as follows—
- (a) for the words “the age of 17”, in each place where they occur, there shall be substituted the words “the age of 18 years”;
 - (b) in section 22(9), for the words “under 17” there shall be substituted the words “under 18”;
 - (c) in section 36(1), for the words “17 years of age” there shall be substituted the words “18 years of age”; and
 - (d) in section 38 for the words “17 years old” there shall be substituted the words “18 years old”.
- (2) In section 81(1), (3) and (8) of that Act, for the words “the age of 17” there shall be substituted the words “the age of 18”.
- (3) In sections 96A, 135(3) and 136(4) of that Act, for the words “aged 17” there shall be substituted the words “aged 18”.

Commencement Information

I76 Sch. 8 para. 6 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

SCHEDULE 9

Section 71.

AMENDMENTS TO SERVICE LAW

Commencement Information

I77 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

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Army Act 1955 (c.18) and Air Force Act 1955 (c.19)

- 1 In section 71A of the Army Act 1955 and the Air Force Act 1955 (life custody for young offenders), in subsections (1B) and (4)(a), for the words “17 years” there shall be substituted the words “18 years”.

Commencement Information

I78 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 2 In section 71AA of those Acts (young service offenders: custodial orders)—
- (a) in subsection (1), for the words “not exceeding” there shall be substituted the words “which—
 - (a) shall be not less than the appropriate minimum period, that is to say—
 - (i) in the case of an offender who has attained eighteen years of age, the period of 21 days; or
 - (ii) in the case of an offender who is under that age, the period of two months; and
 - (b) shall not exceed”;
 - (b) subsection (1A) and, in subsection (1), the words “subject to subsection (1A) below” shall cease to have effect;
 - (c) before subsection (1B) there shall be inserted the following subsection—

“(1AA) The court shall not make a custodial order committing an offender aged 17 to be detained for a period exceeding twelve months or for a period such that the continuous period for which he is committed to be detained under that order and any one or more other custodial orders exceeds twelve months.”; and
 - (d) in subsection (6A), for the words “Section 15 of the Criminal Justice Act 1982” there shall be substituted the words “Section 65 of the Criminal Justice Act 1991”.

Commencement Information

I79 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 3 For subsection (2) of section 93 of those Acts (evidence on oath in court-martial) there shall be substituted the following subsections—
- “(1B) A witness before a court-martial—
- (a) shall be examined on oath if he has attained the age of fourteen; and
 - (b) shall give evidence unsworn if he is under that age.
- (2) Unsworn evidence admitted by virtue of subsection (1B)(b) above may corroborate evidence (sworn or unsworn) given by any other person.”

Status: Point in time view as at 03/11/1994.

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Commencement Information

180 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

4 In paragraph 10 of Schedule 5A to those Acts (civilian offenders: custodial orders)

(a) in sub-paragraph (1), for the words from “detained” to “and in this sub-paragraph” there shall be substituted the words “detained for a period, to be specified in the order, which—

(a) shall not be less than the appropriate minimum period, that is to say—

(i) in the case of an offender who has attained the age of 18, the period of 21 days; or

(ii) in the case of an offender who is under 18 years of age, the period of two months;

(b) shall not exceed the maximum period for which he could have been sentenced to imprisonment if he had attained the age of 21; and

(c) if the order is made by a Standing Civilian Court, shall not exceed six months.

and in this sub-paragraph ”.

(b) in sub-paragraph (1A), for the words “17 years” there shall be substituted the words “18 years”; and

(c) in sub-paragraph (6A), for the words “Section 15 of the Criminal Justice Act 1982” there shall be substituted the words “Section 65 of the Criminal Justice Act 1991”.

Commencement Information

181 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Naval Discipline Act 1957 (c.53)

5 In section 43A of the Naval Discipline Act 1957 (life custody for young offenders), in subsections (1B) and (4)(a), for the words “17 years” there shall be substituted the words “18 years”.

Commencement Information

182 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

6 In section 43AA of that Act (young service offenders: custodial orders)—

(a) in subsection (1), for the words “not exceeding” there shall be substituted the words “which—

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- (a) shall be not less than the appropriate minimum period, that is to say—
 - (i) in the case of an offender who has attained eighteen years of age, the period of 21 days; or
 - (ii) in the case of an offender who is under that age, the period of two months; and
- (b) shall not exceed”;
- (b) subsection (1A) and, in subsection (1), the words “subject to subsection (1A) below”, shall cease to have effect; and
- (c) before subsection (1B) there shall be inserted the following subsection—

“(1AA) The court shall not make a custodial order committing an offender aged 17 to be detained for a period exceeding twelve months or for a period such that the continuous period for which he is committed to be detained under that order and any one or more other custodial orders exceeds twelve months.”; and
- (d) in subsection (6A), for the words “Section 15 of the Criminal Justice Act 1982” there shall be substituted the words “ Section 65 of the Criminal Justice Act 1991 ”.

Commencement Information

183 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 7 For subsections (2) and (3) of section 60 of that Act (evidence on oath in court-martial) there shall be substituted the following subsections—
- “(2) A witness before a court-martial—
- (a) shall be examined on oath if he has attained the age of fourteen; and
 - (b) shall give evidence unsworn if he is under that age.
- (3) Unsworn evidence admitted by virtue of subsection (2)(b) above may corroborate evidence (sworn or unsworn) given by any other person.”

Commencement Information

184 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 8 In paragraph 10 of Schedule 4A to that Act (civilian offenders: custodial orders)—
- (a) in sub-paragraph (1), for the words from “detained” to “and in this sub-paragraph” there shall be substituted the words “detained for a period, to be specified in the order, which—
 - (a) shall be not less than the appropriate minimum period, that is to say—
 - (i) in the case of an offender who has attained the age of 18, the period of 21 days; or
 - (ii) in the case of an offender who is under 18 years of age, the period of two months; and

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(b) shall not exceed the maximum period for which he could have been sentenced to imprisonment if he had attained the age of 21;

and in this sub-paragraph ”;

(b) in sub-paragraph (1A), for the words “17 years” there shall be substituted the words “18 years”; and

(c) in sub-paragraph (6A), for the words “Section 15 of the Criminal Justice Act 1982” there shall be substituted the words “Section 65 of the Criminal Justice Act 1991”.

Commencement Information

I85 Sch. 9 (paras. 1 - 9) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

SCHEDULE 10

Section 89.

CERTIFICATION OF PRISONER CUSTODY OFFICERS

Commencement Information

I86 Sch. 10 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

Preliminary

1 In this Schedule—

“certificate” means a certificate under section 89 of this Act;

“the relevant functions”, in relation to a certificate, means the escort functions or custodial duties authorised by the certificate.

Commencement Information

I87 Sch. 10 para. 1 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

Issue of certificates

2 (1) Any person may apply to the Secretary of State for the issue of a certificate in respect of him.

(2) The Secretary of State shall not issue a certificate on any such application unless he is satisfied that the applicant—

(a) is a fit and proper person to perform the relevant functions; and

(b) has received training to such standard as he may consider appropriate for the performance of those functions.

(3) Where the Secretary of State issues a certificate, then, subject to any suspension under paragraph 3 or revocation under paragraph 4 below, it shall continue in force until such date or the occurrence of such event as may be specified in the certificate.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) A certificate authorising the performance of both escort functions and custodial duties may specify different dates or events as respects those functions and duties respectively.

Modifications etc. (not altering text)

C5 Sch. 10 para. 2: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(h)

Commencement Information

I88 Sch. 10 para. 2 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

Suspension of certificate

- 3 [F²³(1) This paragraph applies where at any time—
- (a) in the case of a prisoner custody officer acting in pursuance of prisoner escort arrangements, it appears to the prisoner escort monitor for the area concerned that the officer is not a fit and proper person to perform escort functions;
 - (b) in the case of a prisoner custody officer performing custodial duties at a contracted out prison, it appears to the controller of that prison that the officer is not a fit and proper person to perform custodial duties; or
 - (c) in the case of a prisoner custody officer performing contracted out functions at a directly managed prison, it appears to the governor of that prison that the officer is not a fit and proper person to perform custodial duties.]
- (2) The prisoner escort monitor [F²⁴ controller or governor] may—
- F²⁵(a) refer the matter to the Secretary of State for a decision under paragraph 4 below; and
 - (b) in such circumstances as may be prescribed by regulations made by the Secretary of State, suspend the officer's certificate so far as it authorises the performance of escort functions or, as the case may be, custodial duties pending that decision.
- (3) The power to make regulations under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F23 Sch. 10 para. 3(1) substituted (3.11.1994) by 1994 c. 33, s. 101(9).

F24 Words in Sch. 10 para. 3(2) substituted (3.11.1994) by 1994 c. 33, s. 101(10).

F25 Sch. 10 para. 3(2)(a): transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(h)

Commencement Information

I89 Sch. 10 para. 3 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

Revocation of certificate

- 4 Where at any time it appears to the Secretary of State that a prisoner custody officer is not a fit and proper person to perform escort functions or custodial duties, he

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may revoke that officer’s certificate so far as it authorises the performance of those functions or duties.

Modifications etc. (not altering text)

C6 Sch. 10 para. 4: transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(h)**

Commencement Information

I90 Sch. 10 para. 4 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(4)** and Sch. 3

False statements

- 5 If any person, for the purpose of obtaining a certificate for himself or for any other person—
- (a) makes a statement which he knows to be false in a material particular; or
 - (b) recklessly makes a statement which is false in a material particular,
- he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I91 Sch. 10 para. 5 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(4)** and Sch. 3

SCHEDULE 11

Section 100.

MINOR AND CONSEQUENTIAL AMENDMENTS

Extent Information

E3 Schedule 11 extends to England and Wales only except as mentioned in s. 102(4)- (6)

Commencement Information

I92 Sch. 11 partly in force at 14.10.1991; partly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)(4)** and Schs.1 and 3; partly in force at 1.4.1992 and 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2, Schs.**; partly in force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3; **Sch. 11** partly in force at 1.6.1999 by S.I. 1999/1280, **art. 3, Sch.**

Children and Young Persons Act 1933 (c.12)

- 1 In section 38(2) of the 1933 Act (false evidence by child) for the words “as aforesaid” there shall be substituted the words “unsworn in any proceedings for an offence by virtue of section 52 of the Criminal Justice Act 1991”.

Commencement Information

I93 Sch. 11 para. 1 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2.**

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Criminal Justice Act 1967 (c.80)

- 2 (1) Section 67 of the 1967 Act (remand time to be taken into account in computing sentences) shall be amended as follows.
- (2) In subsection (1A)(c)—
- (a) after the word “remanded” there shall be inserted the words “or committed”;
 - and
 - (b) after the words “section 23 of the^{M32}Children and Young Persons Act 1969” there shall be inserted the words “or section 37 of the^{M33}Magistrates’ Courts Act 1980”.
- (3) For subsection (5) there shall be substituted the following subsection—
- “(5) This section applies—
- (a) to sentences of detention in a young offender institution; and
 - (b) to determinate sentences of detention passed under section 53(2) of the Children and Young Persons Act 1933 (sentences for serious indictable offences),
- as it applies to sentences of imprisonment.”
- (4) In subsection (6)—
- (a) after the word “being”, in the second place where it occurs, there shall be inserted the words “remanded or”;
 - (b) for the words “committed to the care of a local authority” there shall be substituted the words “remanded or committed to local authority accommodation”; and
 - (c) after the words “the said section 23” there shall be inserted the words “or 37”.

Commencement Information

I94 Sch. 11 para. 2 wholly in force at 1.6.1999; Sch. 11 para 2(1)(2)(a)(3)(4)(a)(b) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; Sch. 11 para. 2(2)(b)(4)(c) in force at 1.6.1999 by S.I. 1999/1280, art. 3, Sch.

Sch. 11 para. 2(2)(b)(4)(c) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is revoked (1.6.1999) by S.I. 1999/1280, art. 2)

Marginal Citations

M32 1969 c. 54.

M33 1980 c. 43.

Criminal Appeal Act 1968 (c.19)

- 3 In section 10(2) of the Criminal Appeal Act 1968 (appeal against sentence in other cases dealt with by Crown Court), for paragraph (b) there shall be substituted the following paragraph—
- “(b) having been made the subject of an order for conditional discharge or a community order within the meaning of Part I of the Criminal Justice Act 1991 (other than a supervision order within the meaning

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of that Part) or given a suspended sentence, appears or is brought before the Crown Court to be further dealt with for his offence.”

Commencement Information

I95 Sch. 11 para. 3 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 4 In section 50(1A) of that Act (right of appeal of probationer etc.), for the words “Section 13” there shall be substituted the words “Section 1C” and the words “a probation order or” shall cease to have effect.

Commencement Information

I96 Sch. 11 para. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Civil Evidence Act 1968 (c.64)

- 5 In section 11(5)(a) of the Civil Evidence Act 1968 (convictions as evidence in civil proceedings), for the words “section 13” there shall be substituted the words “section 1C” and the words “probation or” shall cease to have effect.

Commencement Information

I97 Sch. 11 para. 5 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Children and Young Persons Act 1969 (c. 54)

- 6 (1) In subsection (1) of section 12D of the 1969 Act (duty of court to state in certain cases that requirement is in place of custodial sentence), in paragraph (ii), for sub-paragraphs (a) to (c) there shall be substituted the following sub-paragraphs—
- “(a) the offence of which he has been convicted, or the combination of that offence and one other offence associated with it, was so serious that only a supervision order containing such a requirement or a custodial sentence can be justified for that offence; or
 - (b) that offence was a violent or sexual offence and only a supervision order containing such a requirement or such a sentence would be adequate to protect the public from serious harm from him;”
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) Sub-paragraphs (a) and (b) of subsection (1)(ii) above shall be construed as if they were contained in Part I of the Criminal Justice Act 1991.”

Commencement Information

I98 Sch. 11 para. 6 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Status: Point in time view as at 03/11/1994.

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- 7 (1) In subsection (4) of section 16 of that Act (provisions supplementary to section 15), for the words “a court” there shall be substituted the words “a youth court”.
- (2) In subsection (6)(b) of that section, for the words “subsection (5)” there shall be substituted the words “subsection (10)”.
- (3) In subsection (10) of that section, for the words “paragraph (b) of subsection (2A) and paragraph (a) of subsection (4)” there shall be substituted the words “paragraph (a) of subsection (3)”.

Commencement Information

I99 Sch. 11 para. 7 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 8 (1) In subsection (1) of section 16A of that Act (application of sections 17 to 19 of the 1982 Act), for the words “section 15(2A)(b) and (4)(a)” there shall be substituted the words “section 15(3)(a)”.
- (2) In subsection (2) of that section, for the words “each of those paragraphs” there shall be substituted the words “section 15(3)(a) of this Act”.

Commencement Information

I100 Sch. 11 para. 8 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Vehicles (Excise) Act 1971 (c.10)

F269

Textual Amendments

F26 Sch. 11 para. 9 repealed (1.9.1994) by 1994 c. 22, s. 65, Sch. 5 Pt.I (with s. 57(4)).

Powers of Criminal Courts Act 1973 (c.62)

- 10 In section 11(2) of the 1973 Act (substitution of conditional discharge for probation) for the words “section 8 of this Act” there shall be substituted the words “paragraph 7 of Schedule 2 to the Criminal Justice Act 1991”.

Commencement Information

I101 Sch. 11 para. 10 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 11 In section 12 of that Act (supplementary provisions as to probation and discharge)

Status: Point in time view as at 03/11/1994.

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- (a) in subsection (2), for the words “section 2(7) and paragraph 1 of Schedule 1” there shall be substituted the words “section 2(4)”;
- (b) in subsection (4), for the words “section 2 or 7” there shall be substituted the words “section 1A or 2”.

Commencement Information

I102 Sch. 11 para. 11 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 12 In section 14 of that Act (community service orders)—
- (a) in subsection (4), for the words “section 17(5) of this Act” there shall be substituted the words “Part IV of Schedule 2 to the Criminal Justice Act 1991”;
 - (b) in subsection (5)(b), for the words “section 16” there shall be substituted the words “Part II of Schedule 2 to the Criminal Justice Act 1991”; and
 - (c) in subsection (5)(c), for the words “section 17” there shall be substituted the words “Parts III and IV of that Schedule”.

Commencement Information

I103 Sch. 11 para. 12 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 13 In section 15(2) of that Act (obligations of person subject to community service order), for the words “section 17(1) of this Act” there shall be substituted the words “paragraph 15 of Schedule 2 to the Criminal Justice Act 1991”.

Commencement Information

I104 Sch. 11 para. 13 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 14 In section 31(3C) of that Act (maximum periods of imprisonment in default of payment of Crown Court fine), for the words “five days” there shall be substituted the words “seven days”.

Commencement Information

I105 Sch. 11 para. 14 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 15 In section 58 of that Act (application to Scotland), for the words “sections 8(4), 10, 13, 17C, 25(3), 29(7)” there shall be substituted the words “sections 1C, 25(3) and 29(7)”.

Status: Point in time view as at 03/11/1994.

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Commencement Information

I106 Sch. 11 para. 15 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 16 In section 59 of that Act (application to Northern Ireland), for the words “Sections 17C and 29(7)” there shall be substituted the words “Section 29(7)”.

Extent Information

E4 Sch. 11 para. 16 extends to England and Wales and Northern Ireland as mentioned in s. 102(4)(6)

Commencement Information

I107 Sch. 11 para. 16 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

^{F27}17

Textual Amendments

F27 Sch. 11 para. 17 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), Sch.4

Juries Act 1974 (c.23)

- 18 (1) In Schedule 1 to the Juries Act 1974, Group B (which disqualifies from jury service persons concerned with the administration of justice) shall be amended as follows.
- (2) After the entry relating to a shorthandwriter in any court, there shall be inserted the following entry— “ A court security officer within the meaning of Part IV of the Criminal Justice Act 1991. ”
- (3) After the entry relating to governors, chaplains, medical officers and other officers of penal establishments and members of boards of visitors for such establishments, there shall be inserted the following entry— “ Prisoner custody officers within the meaning of Part IV of the Criminal Justice Act 1991. ”

Commencement Information

I108 Sch. 11 para. 18 wholly in force at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2, Schs. 1, 2.

Solicitors Act 1974 (c.47)

- 19 In section 43(7) of the Solicitors Act 1974 (control of employment of certain clerks), for the words “placing a person on probation or discharging him” there shall be substituted the words “discharging a person” and for the words “section 13” there shall be substituted the words “section 1C”.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I109 Sch. 11 para. 19 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Rehabilitation of Offenders Act 1974 (c.53)

- 20 In section 1(4) of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions)—
- (a) for the words “section 13” there shall be substituted the words “section 1C”;
 - (b) the words “put on probation or” shall cease to have effect; and
 - (c) for the words “placing the person concerned on probation or discharging him” there shall be substituted the words “discharging the person concerned”.

Commencement Information

I110 Sch. 11 para. 20 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Bail Act 1976 (c.63)

- 21 In section 4(3) of the Bail Act 1976 (general right to bail of accused persons and others), for the words “section 6 or section 16 of the ^{M34}Powers of Criminal Courts Act 1973 (breach of requirement of probation or community service order)” there shall be substituted the words “Part II of Schedule 2 to the Criminal Justice Act 1991 (breach of requirement of probation, community service, combination or curfew order)”.

Commencement Information

I111 Sch. 11 para. 21 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M34 1973 c. 62.

- 22 (1) Paragraph 8 of Schedule 1 to that Act (restrictions on the imposition of bail conditions) shall be amended as follows.
- (2) In sub-paragraph (1), after the words “(4) to (7)” there shall be inserted the words “(except subsection (6)(d))” and the words from “or, in the case” to the end shall cease to have effect.
- (3) After sub-paragraph (1) there shall be inserted the following sub-paragraph—
- “(1A) No condition shall be imposed under section 3(6)(d) of this Act unless it appears to be necessary to do so for the purpose of enabling inquiries or a report to be made.”

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) In sub-paragraph (2) for the words “Sub-paragraph (1) above also applies”, there shall be substituted the words “Sub-paragraphs (1) and (1A) above also apply”.
- (5) In sub-paragraph (3), for the words “sub-paragraph (1)” there shall be substituted the words “sub-paragraph (1A)”.

Commencement Information

I112 Sch. 11 para. 22 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Licensed Premises (Exclusion of Certain Persons) Act 1980 (c.32)

- 23 In section 1(2) of the Licensed Premises (Exclusion of Certain Persons) Act 1980 (exclusion orders), for paragraph (b) there shall be substituted the following paragraph—
- “(b) where the offence was committed in England and Wales, notwithstanding the provisions of sections 1A and 1C of the Power of Criminal Courts Act 1973 (cases in which absolute and conditional discharges may be made, and their effect), in addition to an order discharging him absolutely or conditionally;”.

Commencement Information

I113 Sch. 11 para. 23 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Magistrates' Courts Act 1980 (c.43)

F28 24

Textual Amendments

F28 Sch. 11 para. 24 repealed (20.9.1993) by 1993 c. 36, s. 79(14), Sch. 6 Pt.1; S.I. 1993/1968, art. 2(2), Sch.2, Appendix

- 25 In section 20(2)(b) of that Act (procedure where summary trial appears more suitable), for the words from “on obtaining information” to the end there shall be substituted the words “is of such opinion as is mentioned in subsection (2) of that section”.

Commencement Information

I114 Sch. 11 para. 25 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 26 In section 81(3)(a) of that Act (enforcement of fines imposed on young offenders), for the words “section 19(1) of the ^{M35}Criminal Justice Act 1948” there shall be substituted the words “section 17(1) of the ^{M36}Criminal Justice Act 1982”.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I115 Sch. 11 para. 26 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M35 1948 c. 58.

M36 1982 c. 48.

27 (1) In subsection (2) of section 143 of that Act (power to alter sums specified in certain provisions), paragraph (i) shall cease to have effect and after paragraph (o) there shall be inserted the following paragraph—

“(p) section 58(2) and (3) of the Criminal Justice Act 1991 (recognisance from parents or guardians);”.

(2) For subsection (3) of that section there shall be inserted the following subsection—

“(3) In subsection (1) above the “relevant date” means—

- (a) the date of the coming into force of section 17 of the Criminal Justice Act 1991 (increase of certain maxima); or
- (b) where the sums specified in a provision mentioned in subsection (2) above have been substituted by an order under subsection (1) above, the date of that order.”

Commencement Information

I116 Sch. 11 para. 27 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

28 In paragraph 2(2) of Schedule 4 to that Act (maximum periods of imprisonment in default of payment of magistrates’ court fine), for the words “five days” there shall be substituted the words “seven days”.

Commencement Information

I117 Sch. 11 para. 28 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Contempt of Court Act 1981 (c.49)

29 (1) Section 12(2) of the ^{M37}Contempt of Court Act 1981 (offences of contempt of magistrates’ court) shall have effect as if the reference to any officer of the court included a reference to any court security officer assigned to the court-house in which the court is sitting.

(2) In this paragraph “court security officer” and “court-house” have the meanings given by section 92(1) of this Act.

Commencement Information

I118 Sch. 11 para. 29 wholly in force at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2, Schs. 1, 2.

Status: Point in time view as at 03/11/1994.

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Marginal Citations

M37 1981 c. 49.

Criminal Justice Act 1982 (c.48)

30 For subsection (5) of section 1 of the 1982 Act (general restrictions on custodial sentences) there shall be substituted the following subsections—

“(5) No court shall commit a person under 21 years of age to be detained under section 9 below unless it is of the opinion that no other method of dealing with him is appropriate; and in forming any such opinion, the court—

- (a) shall take into account all such information about the circumstances of the default or contempt (including any aggravating or mitigating factors) as is available to it; and
- (b) may take into account any information about that person which is before it.

(5A) Where a magistrates’ court commits a person under 21 years of age to be detained under section 9 below, it shall—

- (a) state in open court the reason for its opinion that no other method of dealing with him is appropriate; and
- (b) cause that reason to be specified in the warrant of commitment and to be entered in the register.”

Commencement Information

I119 Sch. 11 para. 30 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

31 (1) In subsection (1) of section 1A of that Act (detention in a young offender institution), for paragraph (b) there shall be substituted the following paragraph—

“(b) the court is of the opinion that either or both of paragraphs (a) and (b) of subsection (2) of section 1 of the Criminal Justice Act 1991 apply or the case falls within subsection (3) of that section.”

(2) In subsection (4) of that section, for the words “section 15(11) below” there shall be substituted the words “section 65(6) of the Criminal Justice Act 1991”.

Commencement Information

I120 Sch. 11 para. 31 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

32 In section 3(1) of that Act (restrictions on imposing custodial sentences on persons under 21 not legally represented), for paragraphs (a) and (b) there shall be substituted the following paragraph—

“(a) pass a sentence of detention in a young offender institution under section 1A above;”

Status: Point in time view as at 03/11/1994.

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Commencement Information

I121 Sch. 11 para. 32 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 33 In section 13 of that Act (conversion of sentence of detention in a young offender institution to imprisonment), after subsection (5) there shall be inserted the following subsection—

“(6) This section applies to a person who is serving a sentence of custody for life under section 8(2) above, or is detained under section 53 of the Children and Young Persons Act 1933, as it applies to a person serving a sentence of detention in a young offender institution.”

Commencement Information

I122 Sch. 11 para. 33 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 34 In section 17(1) of that Act (attendance centre orders), for the words “section 6 of the ^{M38}Powers of Criminal Courts Act 1973” there shall be substituted the words “Part II of Schedule 2 to the Criminal Justice Act 1991”.

Commencement Information

I123 Sch. 11 para. 34 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M38 1973 c. 62.

Repatriation of Prisoners Act 1984 (c.47)

- 35 (1) In section 2 of the Repatriation of Prisoners Act 1984 (transfer of prisoners out of United Kingdom), in subsection (4)(b), for sub-paragraph (i) there shall be substituted the following sub-paragraph—

“(i) released on licence under section 33(1)(b) or (2), 34(3) or 35(1) or (2) of the Criminal Justice Act 1991;”.

^{F29}(2)

- (3) In paragraph 2 of the Schedule to that Act (operation of certain enactments in relation to prisoners transferred into United Kingdom)—

^{F29}(a)

- (b) in sub-paragraph (2), for the words “one third” there shall be substituted the words “any particular proportion or part”.

^{F29}(4)

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F29 Sch. 11 para. 35(2)(3)(a)(4) repealed (1.10.1993) by 1993 c. 9, s. 47(3), **Sch. 7 Pt.I**; S.I. 1993/2050, **art. 3(4)**

Modifications etc. (not altering text)

C7 Sch. 11 para. 35(3)(b) extended (S.) (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para 3(4)**; S.I. 1993/2050, **art. 3(4)**

Commencement Information

I124 Sch. 11 para. 35 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Prosecution of Offences Act 1985 (c.23)

36 In section 22(11) of the Prosecution of Offences Act 1985 (time limits in relation to preliminary stages of criminal proceedings), after the definition of “appropriate court” there shall be inserted the following definition—

““custody” includes local authority accommodation to which a person is remanded or committed by virtue of section 23 of the Children and Young Persons Act 1969, and references to a person being committed to custody shall be construed accordingly;”.

Commencement Information

I125 Sch. 11 para. 36 wholly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 1

Criminal Justice Act 1988 (c.33)

37 In section 34 of the Criminal Justice Act 1988 (abolition of requirement of corroboration for unsworn evidence of children), subsection (1) shall cease to have effect and, in subsection (3), for the words “section 38 of the^{M39} Children and Young Persons Act 1933” there shall be substituted the words “section 52 of the Criminal Justice Act 1991”.

Commencement Information

I126 Sch. 11 para. 37 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Marginal Citations

M39 1933 c. 12.

Road Traffic Offenders Act 1988 (c.53)

38 (1) In subsection (1) of section 46 of the Road Traffic Offenders Act 1988 (combination of disqualification and endorsement with probation orders and orders for discharge), for the words “section 13(3)” there shall be substituted the words “section 1C(3)” and the words “placed on probation or” shall cease to have effect.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In subsection (2) of that section, for the words “section 13(1)” there shall be substituted the words “section 1C(1)” and the words “placed on probation or” shall cease to have effect.

Commencement Information

I127 Sch. 11 para. 38 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Extradition Act 1989 (c.33)

- 39 In section 20(2)(b)(i) of the Extradition Act 1989 (restoration of persons not tried or acquitted), for the words “section 7(1)” there shall be substituted the words “section 1A(1)”.

Commencement Information

I128 Sch. 11 para. 39 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

References to juvenile courts

- 40 (1) Without prejudice to the generality of section 70(2) of this Act, in the enactments specified in sub-paragraph (2) below, for the words “juvenile court” or “juvenile courts”, in each place where they occur, there shall be substituted the words “youth court” or, as the case may require, “youth courts”.
- (2) The enactments referred to in sub-paragraph (1) above are as follows—
- (a) in the 1933 Act, sections 45 to 49, 56 and 108(4) and Schedule 2;
 - (b) in the ^{M40}Education Act 1944, section 40;
 - (c) in the ^{M41}Children Act 1948, section 4B;
 - (d) in the ^{M42}Adoption Act 1958, sections 43, 47 and 48;
 - (e) in the ^{M43}Children and Young Persons Act 1963, sections 3, 18, 23, 26, 28, 29 and 57;
 - (f) in the ^{M44}Administration of Justice Act 1964, section 12;
 - (g) in the 1969 Act, sections 1 to 3, 7, 10, 15, 16, 20A to 22 and 70(1) and Schedule 4;
 - (h) in the ^{M45}Criminal Justice Act 1972, section 51(1);
 - (i) in the 1973 Act, section 46;
 - (j) in the ^{M46}Adoption Act 1976, sections 34 and 37;
 - (k) in the 1979 Act, sections 35(3), 37(1), 38(2) and 58(1) and (5);
 - (l) in the ^{M47}Child Care Act 1980, sections 5 to 7, 12C to 12E, 21A, 67 and 79(2);
 - (m) in the ^{M48}Foster Children Act 1980, sections 11(1), 12(1) and 14;
 - (n) in the 1980 Act, sections 12(1), 29, 104 and 146;
 - (o) in the 1982 Act, section 16(2) and in Schedule 3, the entry relating to section 49(2) of the 1933 Act;

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (p) in the ^{M49}Administration of Justice Act 1985, section 61;
- (q) in the ^{M50}Legal Aid Act 1988, sections 3(4), 19(3) and (5), 27(3) and (4), 28(3) and (7), 30(2) and in Schedule 3, paragraphs 9 and 10; and
- (r) in the ^{M51}Children Act 1989, section 90(1) and Schedule 14.

Commencement Information

I129 Sch. 11 para. 40 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M40 1944 c. 31.
M41 1948 c. 43.
M42 1958 c. 5.
M43 1963 c. 37.
M44 1964 c. 42.
M45 1972 c. 71.
M46 1976 c. 36.
M47 1980 c. 5.
M48 1980 c. 6.
M49 1985 c. 61.
M50 1988 c. 34.
M51 1989 c. 41.

References to juvenile court panels

- 41 (1) Without prejudice to the generality of section 70(2) of this Act, in the enactments specified in sub-paragraph (2) below, for the words “juvenile court panel” or “juvenile court panels”, in each place where they occur, there shall be substituted the words “youth court panel” or, as the case may require, “youth court panels”.
- (2) The enactments referred to in sub-paragraph (1) above are as follows—
- (a) in the 1933 Act, Schedule 2;
 - (b) in the 1973 Act, in Schedule 3, paragraph 2(3);
 - (c) in the 1979 Act, section 35(3);
 - (d) in the ^{M52}Child Care Act 1980, section 12E(5); and
 - (e) in the 1980 Act, section 146.

Commencement Information

I130 Sch. 11 para. 41 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Marginal Citations

M52 1980 c. 5.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 12

Section 101(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Commencement Information

I131 Sch. 12 partly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1) and Sch. 1; further in force at 25.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1) and Sch. 2; further in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2; further in force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3; Sch. 12 para. 16(2)-(4) in force (1.6.1999) by S.I. 1999/1280, art. 3, Sch.

Custodial and community sentences

- 1 Each of sections 1 to 13 of this Act shall apply in relation to offenders convicted (but not sentenced) before the commencement of that section as it applies in relation to offenders convicted after that commencement.

Commencement Information

I132 Sch. 12 para. 1 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 2 Neither subsection (2) of section 8 of this Act, nor the repeal by this Act of section 13 of the 1973 Act, shall affect the operation of section 13 in relation to persons placed on probation before the commencement of that subsection or, as the case may be, that repeal.

Commencement Information

I133 Sch. 12 para. 2 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 3 An establishment which immediately before the commencement of Part II of Schedule 1 to this Act is a day centre within the meaning of section 4B of the 1973 Act shall be treated as if, immediately after that commencement, it had been approved by the Secretary of State as a probation centre within the meaning of paragraph 3(7) of Schedule 1A to that Act.

Commencement Information

I134 Sch. 12 para. 3 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 4 Paragraph 6 of Schedule 11 to this Act shall apply in relation to offenders convicted (but not sentenced) before the commencement of that paragraph as it applies to offenders convicted after that commencement.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I135 Sch. 12 para. 4 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Community orders: supplemental

- 5 (1) Paragraphs 3 and 4 of Schedule 2 to this Act shall apply in relation to pre-existing failures to comply with the requirements of probation orders or community service orders as if, in sub-paragraph (1)(a), for “£1,000” there were substituted “£400”.
- (2) In this paragraph “pre-existing”, in relation to either of those paragraphs, means occurring before the commencement of that paragraph.

Commencement Information

I136 Sch. 12 para. 5 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Financial penalties

- 6 None of sections 17 to 20 of this Act shall apply in relation to offences committed before the commencement of that section.

Commencement Information

I137 Sch. 12 para. 6 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 25/08/2000

[^{F30}6A Section 17 of this Act shall not apply in relation to offences committed before the commencement of that section.]

Textual Amendments

F30 Sch. 12 para. 6A inserted (28.5.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 149

Increase of certain penalties

- 7 Neither of subsections (3) and (4) of section 26 of this Act shall apply in relation to offences committed before the commencement of that subsection.

Commencement Information

I138 Sch. 12 para. 7 wholly in force at 25.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(2) and Sch. 2

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Early release: general

- 8 (1) In this paragraph and paragraphs 9 to 11 below—
- “existing licensee” means any person who, before the commencement of Part II of this Act, has been released on licence under section 60 of the 1967 Act and whose licence under that section is in force at that commencement;
- “existing prisoner” means any person who, at that commencement, is serving a custodial sentence;
- and sub-paragraphs (2) to (7) below shall have effect subject to those paragraphs.
- (2) Subject to sub-paragraphs (3) to (7) below, Part II of this Act shall apply in relation to an existing licensee as it applies in relation to a person who is released on licence under that Part; and in its application to an existing prisoner, or to an existing licensee who is recalled under section 39 of this Act, that Part shall apply with the modifications made by those sub-paragraphs.
- (3) Section 40 of this Act shall not apply in relation to an existing prisoner or licensee.
- (4) In relation to an existing prisoner whose sentence is for a term of twelve months, section 33(1) of this Act shall apply as if that sentence were for a term of less than twelve months.
- (5) In relation to an existing prisoner or licensee whose sentence is for a term of—
- (a) more than twelve months; and
 - (b) less than four years or, as the case may require, such other period as may for the time being be referred to in section 33(5) of this Act,
- Part II of this Act shall apply as if he were or had been a long-term rather than a short-term prisoner.
- (6) In relation to an existing prisoner or licensee whose sentence is for a term of more than twelve months—
- (a) section 35(1) of this Act shall apply as if the reference to one half of his sentence were a reference to one-third of that sentence or six months, whichever is the longer; and
 - (b) sections 33(3) and 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to two-thirds of that sentence.
- (7) In relation to an existing prisoner or licensee—
- (a) whose sentence is for a term of more than twelve months; and
 - (b) whose case falls within such class of cases as the Secretary of State may determine after consultation with the Parole Board,
- section 35(1) of this Act shall apply as if the reference to a recommendation by the Board included a reference to a recommendation by a local review committee established under section 59(6) of the 1967 Act.
- (8) In this paragraph “custodial sentence” means—
- (a) a sentence of imprisonment;
 - (b) a sentence of detention in a young offender institution;
 - (c) a sentence of detention (whether during Her Majesty’s pleasure, for life or for a determinate term) under section 53 of the 1933 Act; or
 - (d) a sentence of custody for life under section 8 of the 1982 Act.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C8 Sch. 12 para. 8 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2)(4), Sch. 5 paras. 9(1)(a)(b)(2)(a)(b), **10(1)(b)(c)(2)(a)(b)**; S.I. 1997/2200, **art. 2(1)(n)**.

Commencement Information

I139 Sch. 12 para. 8 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

- 9 (1) This paragraph applies where, in the case of an existing life prisoner, the Secretary of State certifies his opinion that, if—
- (a) section 34 of this Act had been in force at the time when he was sentenced; and
 - (b) the reference in subsection (1)(a) of that section to a violent or sexual offence the sentence for which is not fixed by law were a reference to any offence the sentence for which is not so fixed,
- the court by which he was sentenced would have ordered that that section should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) In a case to which this paragraph applies, Part II of this Act except section 35(2) shall apply as if—
- (a) the existing life prisoner were a discretionary life prisoner for the purposes of that Part; and
 - (b) the relevant part of his sentence within the meaning of section 34 of this Act were the part specified in the certificate. [^{F31}and
 - (c) in section 34 of this Act, paragraph (a) of subsection (6) and subsection (6A) were omitted.]
- (3) In this paragraph “existing life prisoner” means a person who, at the commencement of Part II of this Act, is serving one or more of the following sentences, namely—
- (a) a sentence of life imprisonment;
 - (b) a sentence of detention during her Majesty’s pleasure or for life under section 53 of the 1933 Act; or
 - (c) a sentence of custody for life under section 8 of the 1982 Act.
- (4) A person serving two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of Part II of this Act unless the requirements of subparagraph (1) above are satisfied as respects each of those sentences; and subsections (3) and (5) of section 34 of this Act shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

Textual Amendments

F31 Sch. 12 para. 9(2)(c) and the word “and” immediately preceding it inserted (3.11.1994) by 1994 c. 33, s. 168(1), **Sch. 9 para. 46(2)**.

Modifications etc. (not altering text)

C9 Sch. 12 para. 9 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2), Sch. 5 paras. 9(2)(a)(b), **10(2)(a)(b)**; S.I. 1997/2200, **art. 2(1)(n)**.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I140 Sch. 12 para. 9 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 10 Prison rules made by virtue of section 42 of this Act may include provision for applying any provisions of Part II of this Act, in relation to any existing prisoner or licensee who has forfeited any remission of his sentence, as if he had been awarded such number of additional days as may be determined by or under the rules.

Modifications etc. (not altering text)

C10 Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, art. 2(1)(n).

Commencement Information

I141 Sch. 12 para. 10 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Early release of young persons detained under 1933 Act

- 11 In relation to an existing prisoner or licensee whose sentence is a determinate sentence of detention under section 53 of the 1933 Act—
- (a) Part II of this Act shall apply as if he were or had been a life rather than a long-term or short-term prisoner;
 - (b) section 35(2) of this Act shall apply as if the requirement as to consultation were omitted; and
 - (c) section 37(3) of this Act shall apply as if the reference to his death were a reference to the date on which he would (but for his release) have served the whole of his sentence.

Modifications etc. (not altering text)

C11 Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, art. 2(1)(n).

Commencement Information

I142 Sch. 12 para. 11 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Early release of prisoners serving extended sentences

- 12 (1) In relation to an existing prisoner or licensee on the passing of whose sentence an extended sentence certificate was issued—
- (a) section 33(3) of this Act shall apply as if the duty to release him unconditionally were a duty to release him on licence; and
 - (b) section 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to the whole of that sentence.
- (2) In this paragraph “extended sentence certificate” means a certificate issued under section 28 of the 1973 Act stating that an extended term of imprisonment was imposed on an offender under that section.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C12 Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

Commencement Information

I143 Sch. 12 para. 12 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Early release of fine defaulters and contemnors

- 13 Part II of this Act shall apply in relation to any person who, before the commencement of that Part, has been committed to prison or to be detained under section 9 of the 1982 Act—
- (a) in default of payment of a sum adjudged to be paid by a conviction; or
 - (b) for contempt of court or any kindred offence,
- as it applies in relation to any person who is so committed after that commencement.

Modifications etc. (not altering text)

C13 Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

Commencement Information

I144 Sch. 12 para. 13 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Responsibilities of parent or guardian

- 14 None of sections 56 to 58 of this Act shall apply in relation to offences committed before the commencement of that section; and the repeals of subsections (7)(c), (7B) and (7C) of section 7 of the 1969 Act shall not apply in relation to offences committed before the commencement of those repeals.

Commencement Information

I145 Sch. 12 para. 14 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Remands and committals of children and young persons

- 15 (1) In this paragraph—
- “section 23” means section 23 of the 1969 Act as substituted by section 60(1) of this Act;
 - “the modifications” means the modifications of section 23 set out in section 62 of this Act;
 - “remand or committal” means a remand of a child or young person charged with or convicted of one or more offences, or a committal of a child or young person for trial or sentence.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Section 23 as it has effect with the modifications shall not apply in relation to any remand or committal which is in force immediately before the commencement of sections 60 and 62 of this Act.
- (3) Subject to sub-paragraphs (4) and (5) below, section 23 as it has effect without the modifications shall not apply in relation to any remand or committal which is in force immediately before the day appointed under section 62(1) of this Act.
- (4) Any person who, in pursuance of any such remand or committal, is held in a remand centre or prison shall be brought before the court which remanded or committed him before the end of the period of 8 days beginning with the day so appointed.
- (5) Where any person is brought before a court under sub-paragraph (4) above, section 23 as it has effect without the modifications shall apply as if the court were just remanding or committing him as mentioned in subsection (1)(a) of that section.

Commencement Information

I146 Sch. 12 para. 15 partly in force; Sch. 12 para. 15(1)(2) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.
 Sch. 15 para. 15(3)-(5) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3.

- 16 (1) Subsection (2)(a) of section 60 of this Act shall not apply in any case where proceedings for the offence in question have begun before the commencement of that section.
- (2) Subject to sub-paragraphs (3) and (4) below, subsection (2)(b) and (c) of that section shall not apply in relation to any committal under section 37 of the 1980 Act which is in force immediately before that commencement.
- (3) Any person less than 17 years old who, in pursuance of any such committal, is held in a remand centre or prison shall be brought before the court which committed him before the end of the period of 8 days beginning with that commencement.
- (4) Where any person is brought before a court under sub-paragraph (3) above, section 37 of the 1980 Act shall apply as if the court were just committing him under that section.

Commencement Information

I147 Sch. 12 para. 16 wholly in force at 1.6.1999; Sch. 12 para. 16(1) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; Sch. 12 para. 16(2)-(4) in force (1.6.1999) by S.I. 1999/1280, art. 3, Sch. Sch. 12 para. 16(2)-(4) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is revoked (1.6.1999) by S.I. 1999/1280, art. 2

Custodial sentences for young offenders

- 17 (1) Subject to sub-paragraph (2) below, section 63 of this Act shall apply in relation to young offenders convicted (but not sentenced) before the commencement of that section as it applies in relation to young offenders convicted after that commencement.

Status: Point in time view as at 03/11/1994.

Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Subsections (2), (3) and (5) of that section shall not apply in any case where proceedings for the offence in question have begun before that commencement and the offender is aged 17 at the date of his conviction.
- (3) For the purposes of the provisions substituted by subsection (3)(c) of that section, any sentence of detention in a young offender institution which, at that commencement, is being served by an offender aged 17 shall be disregarded.

Commencement Information

I148 Sch. 12 para. 17 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 18 Section 64 of this Act shall not apply in any case where the offence in question was committed before the commencement of that section and the offender is aged 16 at the date of his conviction.

Commencement Information

I149 Sch. 12 para. 18 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Supervision of young offenders after release

- 19 Section 65 of this Act shall not apply in relation to any person under the age of 22 years who, before the commencement of that section, is released from a term of detention in a young offender institution or under section 53 of the 1933 Act; and the repeal by this Act of section 15 of the 1982 Act shall not affect the operation of that section in relation to any such person who is so released.

Modifications etc. (not altering text)

C14 Sch. 12 para. 19 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, art. **2(1)(n)**.

Commencement Information

I150 Sch. 12 para. 19 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Supervision orders

- 20 (1) In relation to pre-existing failures to comply with the requirements of supervision orders, section 15 of the 1969 Act as substituted by Schedule 7 to this Act shall apply as if—
- (a) in subsection (3)(a), for “£1,000” there were substituted “£100”;
 - (b) in subsection (5)(b), for “£5,000” there were substituted “£2,000”; and
 - (c) in subsection (5)(c), for “£5,000” there were substituted the words “£2,000 in the case of a person who has attained the age of 18 years and £400 in the case of a person who has not attained that age”.
- (2) In this paragraph “pre-existing” means occurring before the commencement of section 66 of this Act and that Schedule.

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Commencement Information

I151 Sch. 12 para. 20 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Attendance centre orders

- 21 (1) Subsection (2) of section 67 of this Act shall not apply in relation to attendance centre orders made before the commencement of that section.
- (2) Subsection (4) of that section shall not apply in relation to pre-existing failures to attend in accordance with an attendance centre order or pre-existing breaches of rules made under section 16(3) of the 1982 Act.
- (3) In this paragraph “pre-existing” means occurring or committed before that commencement.

Commencement Information

I152 Sch. 12 para. 21 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Provisions for treating persons aged 17 as young persons

- 22 (1) Paragraphs 1, 3, 4 and 6 of Schedule 8 shall not apply in any case where proceedings for the offence in question have begun before the commencement of that Schedule.
- (2) Paragraph 5 of that Schedule shall apply in relation to any sentence imposed on any person who was convicted before that commencement and was aged 17 at the date of his conviction.

Commencement Information

I153 Sch. 12 para. 22 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Renaming of juvenile courts etc.

- 23 In relation to any time before the commencement of section 70 of this Act, references in any other provision of this Act, or in any enactment amended by this Act, to youth courts shall be construed as references to juvenile courts.

Commencement Information

I154 Sch. 12 para. 23 wholly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1) and Sch. 1

Supplemental

- 24 For the purposes of this Schedule proceedings for an offence shall be regarded as having begun as follows—
- (a) in the case of an offence triable only summarily, when a plea is entered;

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- (b) in the case of an offence triable only on indictment, when the magistrates' court begins to inquire into the offence as examining magistrates;
- (c) in the case of an offence triable either way, when the magistrates' court determines to proceed with the summary trial of the offence or, as the case may be, to proceed to inquire into the offence as examining justices.

Commencement Information

I155 Sch. 12 para. 24 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

SCHEDULE 13

Section 101(2).

REPEALS

Extent Information

E5 Schedule 13 extends to England and Wales only except as mentioned in s. 102(5) - (8).

Commencement Information

I156 Sch. 13 partly in force; Sch. 13 in force so far as relating to the repeal of s. 11 of the Metropolitan Police Act 1839 (2 & 3 Vict. c. 47) see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3; Sch 13 in force at 1.10.1992 (except in so far as it relates to s. 67(6) of the Criminal Justice Act 1967 (c. 80)) see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; Sch. 13 in force (so far as it relates to 1999 c. 80, s. 67(6)) (1.6.1999) by S.I. 1999/1280, art. 3, Sch.

Sch. 13, so far as it relates to s. 67(6) of the Criminal Justice Act 1967 (c. 80), shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) was revoked (1.6.1999) by S.I. 1999/1280, art. 2

Chapter	Short title	Extent of repeal
2 & 3 Vict. c. 47.	The Metropolitan Police Act 1839.	Section 11.
23 & 24 Geo. 5 c. 12.	The Children and Young Persons Act 1933.	Section 34(1).Section 38(1).
15 & 16 Geo. 6 & 1 Eliz. 2 c. 52.	The Prison Act 1952.	Section 25.
3 & 4 Eliz. 2 c. 18.	The Army Act 1955.	In section 71AA(1), the words “subject to subsection (1A) below” and “being not less than 21 days and”.Section 71AA(1A).Section 93(2A).
3 & 4 Eliz. 2 c. 19.	The Air Force Act 1955.	In section 71AA(1), the words “subject to subsection (1A) below” and “being not less than

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		21 days and”.Section 71AA(1A).Section 93(2A).
5 & 6 Eliz. 2 c. 53.	The Naval Discipline Act 1957.	In section 43AA(1), the words “subject to subsection (1A) below” and “being not less than 21 days and”.Section 43AA(1A).Section 60(3A).
1967 c. 80.	The Criminal Justice Act 1967.	Sections 59 to 64.In section 67(6), the words “remanded or”, in the first place where they occur, and the words “section 23 of the Children and Young Persons Act 1969 or”.Schedule 2.
1968 c. 19.	The Criminal Appeal Act 1968.	In section 50(1A), the words “a probation order or”.
1968 c. 49.	The Social Work (Scotland) Act 1968.	In section 72, in subsection (1A), paragraph (a) and the word “and” immediately following that paragraph, and subsection (4).
1968 c. 64.	The Civil Evidence Act 1968.	In section 11(5)(a), the words “probation or”.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 3, the words “disregarding section 4 of this Act”, in each place where they occur.Section 4.In section 5, subsections (1) to (7) and, in subsection (9), the definitions of “qualified informant” and “designated”.In section 7, in subsection (7), the words “is found guilty of homicide” and paragraph (c), and subsections (7B) and (7C).Section 8.Section 10(1)(a).In section 12AA, subsections (7), (8) and (12).In section 34(1), in paragraph (a), the word “4,” and paragraph (b).In Schedule 4, paragraphs 2 and 3.
1971 c. 10.	The Vehicles (Excise) Act 1971.	In section 9(5), the words “placing him on probation or”.

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1971 c. 23.	The Courts Act 1971.	In Schedule 8, in paragraph 57(1)(a), the reference to subsection (2) of section 10.
1972 c. 19.	The Criminal Justice Act 1972.	Section 35.
1973 c. 62.	The Powers of Criminal Courts Act 1973.	Sections 5 to 10. Section 13. In section 14, in subsection (1), the words “instead of dealing with him in any other way” and, in subsection (3), the words “(i) or (ii)”. Sections 16 to 17C. Sections 20 and 20A. Sections 28 and 29. In section 30(1), the words “(such as the power to make a probation order)”. In section 42(2)(a), the words from “subject to” to “twelve months”. Section 45. Section 48. In section 57(1), the definition of “supervising court”. Schedule 1. In Schedule 3, in paragraph 2(2)(a), the word “several”.
1974 c. 53.	The Rehabilitation of Offenders Act 1974.	In section 1(4), the words “put on probation or”.
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In section 403, the proviso to subsection (4) and, in subsection (6), the words “the proviso to subsection (4) of this section shall not apply, but”. In Schedule 9, paragraph 50.
1976 c. 63.	The Bail Act 1976.	In Schedule 1, in paragraph 8(1), the words from “or, in the case” to the end.
1977 c. 45.	The Criminal Law Act 1977.	Section 47. In Schedule 12, in the entry relating to the Children and Young Persons Act 1969, paragraph 3.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In section 24(4), the words from “but this subsection” to the end. Section 35. In section 36(2), the words from “but this subsection” to the end. Section 103(3)(a). Section 37(1A). In section 108(1A), the words “ a probation order

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		or”.Section 143(2)(i).In Schedule 3, paragraph 5.
1982 c. 48.	The Criminal Justice Act 1982.	In section 1, subsections (3) to (4A).In section 1A(3), the words “and section 1B(3) below”.In section 1B, subsections (1) and (3).Section 2.Section 15.Section 17(3).In section 18(6)(b), the words from the beginning to “residence”.Section 33.In section 48, subsections (1)(c) and (2).Section 62.Schedule 5.In Schedule 11, paragraph 6(a) (v).In Schedule 13, Part I.In Schedule 14, paragraphs 23(a), 25 and 32.
1983 c. 20.	The Mental Health Act 1983.	In section 50(3), the words from “and that period” to the end.
1984 c.60.	The Police and Criminal Evidence Act 1984.	In section 37, subsections (11) to (14).
1988 c. 33.	The Criminal Justice Act 1988.	Section 34(1).In section 123, subsections (2) and (3).Section 131(2).In Schedule 8, in paragraph 3(1)(c), the words “1(3) and”.In Schedule 10, in Part II, the words “section 15(1)”, “section 15(1) and (5) and” and “section 15(1) (a) and”, and Part III.In Schedule 15, paragraph 22(1).In Schedule 16, the entry relating to section 41(8) of the Administration of Justice Act 1970.
1988 c. 38.	The Legal Aid Act 1988.	In section 20(4), the word “or” immediately following paragraph (b).
1988 c. 53.	The Road Traffic Offenders Act 1988.	In section 46, in subsections (1) and (2), the words “placed on probation or”.
1989 c. 41.	The Children Act 1989.	In Schedule 12, paragraphs 21 and 24.In Schedule 13, paragraph 53(1).

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1989 c. 42.	The Local Government and Housing Act 1989.	Section 189.
1991 c. 62.	The Armed Forces Act 1991.	In section 3(1), the words from “and after the words” to the end. In section 5, subsections (2)(b) and (9). In Schedule 2, paragraph 3.

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