Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

An Act to make further provision in relation to criminal justice (including employment in the prison service); to amend or extend the criminal law and powers for preventing crime and enforcing that law; to amend the Video Recordings Act 1984; and for purposes connected with those purposes. [3rd November 1994]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extent Information
E1 Act extends mainly to England and Wales only, but for exceptions see s. 172(7)-(16)

Commencement Information
I1 Act partly in force at Royal Assent, see s. 172(2)-(4)(6)

PART I

YOUNG OFFENDERS

Secure training orders

F1 **1** .....

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F1 Ss. 1-4 repealed and superseded (1.4.2000) by 1998 c. 37, ss. 73(7)(b), 74-78, 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3(c)** (with savings in art. 4)

F2 **2** . . . . . .

Textual Amendments

F2 Ss. 1-4 repealed and superseded (1.4.2000) by 1998 c. 37, ss. 73(7)(b), 74-78, 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3(b)** (with savings in art. 4) (and subject to amendment (*prosp.*) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 22**)

F3 **3** . . . . . .

Textual Amendments

F3 Ss. 1-4 repealed and superseded (1.4.2000) by 1998 c. 37, ss. 73(7)(b), 74-78, 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3** (with savings in art. 4)

F4 **4** . . . . . .

Textual Amendments

F4 Ss. 1-4 repealed and superseded (1.4.2000) by 1998 c. 37, ss. 73(7)(b), 74-78, 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3** (with savings in art. 4)

5 Provision etc. of secure training centres.

(1) Section 43 of the M1Prison Act 1952 (which enables certain institutions for young offenders to be provided and applies provisions of the Act to them) shall be amended as follows.

(2) In subsection (1), after paragraph (c), there shall be inserted the following paragraph, preceded by the word "and"—

"(d) secure training centres, that is to say places in which offenders not less than 12 but under 17 years of age in respect of whom secure training orders have been made under section 1 of the Criminal Justice and Public Order Act 1994 may be detained and given training and education and prepared for their release".

(3) After subsection (4), there shall be inserted the following subsection—

"(4A) Sections 16, 22 and 36 of this Act shall apply to secure training centres and to persons detained in them as they apply to prisons and prisoners.".

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(4) In subsection (5), for the words "such centres" there shall be substituted the words " centres of the descriptions specified in subsection (4) above ".

(5) After subsection (5), there shall be inserted the following subsection—

"(5A) The other provisions of this Act preceding this section, except sections 5, 5A, 6(2) and (3), 12, 14, 19, 25, 28 and 37(2) and (3) above, shall apply to secure training centres and to persons detained in them as they apply to prisons and prisoners, but subject to such adaptations and modifications as may be specified in rules made by the Secretary of State.".

Marginal Citations
M1 1952 c. 52.

6 Management of secure training centres.

(1) Section 47 of the Prison Act 1952 (rules for the regulation and management of prisons and certain institutions for young offenders) shall be amended as follows.

(2) In subsection (1), for the words between "remand centres" and "respectively", there shall be substituted the words " , young offender institutions or secure training centres ".

(3) After subsection (4), there shall be inserted the following subsection—

"(4A) Rules made under this section shall provide for the inspection of secure training centres and the appointment of independent persons to visit secure training centres and to whom representations may be made by offenders detained in secure training centres.".

(4) In subsection (5), for the words between "remand centre" and "not" there shall be substituted the words " , young offender institution or secure training centre ".

7 Contracting out of secure training centres.

(1) The Secretary of State may enter into a contract with another person for the provision or running (or the provision and running) by him, or (if the contract so provides) for the running by sub-contractors of his, of any secure training centre or part of a secure training centre.

(2) While a contract for the running of a secure training centre or part of a secure training centre is in force the centre or part shall be run subject to and in accordance with the [M2]Prison Act 1952 and in accordance with secure training centre rules subject to such adaptations and modifications as the Secretary of State may specify in relation to contracted out secure training centres.

(3) Where the Secretary of State grants a lease or tenancy of land for the purposes of any contract under this section, none of the following enactments shall apply to it, namely—

(a) Part II of the [M3]Landlord and Tenant Act 1954 (security of tenure);

(b) section 146 of the [M4]Law of Property Act 1925 (restrictions on and relief against forfeiture); and

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(c) section 19 of the [M5]Landlord and Tenant Act 1927 and the [M6]Landlord and Tenant Act 1988 (covenants not to assign etc.).

In this subsection "lease or tenancy" includes an underlease or sub-tenancy.

(4) In this section—

(a) the reference to the Prison Act 1952 is a reference to that Act as it applies to secure training centres by virtue of section 43 of that Act; and

(b) the reference to secure training centre rules is a reference to rules made under section 47 of that Act for the regulation and management of secure training centres.

Modifications etc. (not altering text)
C1 S. 7: Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(i)**

Marginal Citations
M2 1952 c. 52.
M3 1954 c. 56.
M4 1925 c. 20.
M5 1927 c. 36.
M6 1988 c. 26.

8 Officers of contracted out secure training centres.

(1) Instead of a governor, every contracted out secure training centre shall have—

(a) a director, who shall be a custody officer appointed by the contractor and specially approved for the purposes of this section by the Secretary of State; and

(b) a monitor, who shall be a Crown servant appointed by the Secretary of State;

and every officer of such a secure training centre who performs custodial duties shall be a custody officer who is authorised to perform such duties or an officer of a directly managed secure training centre who is temporarily attached to the secure training centre.

(2) The director shall have such functions as are conferred on him by the [M7]Prison Act 1952 as it applies to secure training centres and as may be conferred on him by secure training centre rules.

(3) The monitor shall have such functions as may be conferred on him by secure training centre rules and shall be under a duty—

(a) to keep under review, and report to the Secretary of State on, the running of the secure training centre by or on behalf of the director; and

(b) to investigate, and report to the Secretary of State on, any allegations made against custody officers performing custodial duties at the secure training centre or officers of directly managed secure training centres who are temporarily attached to the secure training centre.

(4) The contractor and any sub-contractor of his shall each be under a duty to do all that he reasonably can (whether by giving directions to the officers of the secure training centre or otherwise) to facilitate the exercise by the monitor of all such functions as are mentioned in or imposed by subsection (3) above.

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Modifications etc. (not altering text)
C2 S. 8(1)(b)(3): Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(k)(i)**

Marginal Citations
M7 1952 c. 52.

9 Powers and duties of custody officers employed at contracted out secure training centres.

(1) A custody officer performing custodial duties at a contracted out secure training centre shall have the following powers, namely—

(a) to search in accordance with secure training centre rules any **[**F5person**]** who is detained in the secure training centre; and

(b) to search **[**F6in accordance with secure training centre rules**]** any other person who is in or who is seeking to enter the secure training centre, and any article in the possession of such a person.

(2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a custody officer to require a person to **[**F7submit to an intimate search (within the meaning of section 164(5) of the Customs and Excise Management Act 1979).**]**

(3) A custody officer performing custodial duties at a contracted out secure training centre shall have the following duties as respects **[**F8persons**]** detained in the secure training centre, namely—

(a) to prevent their escape from lawful custody;

(b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;

(c) to ensure good order and discipline on their part; and

(d) to attend to their wellbeing.

(4) The powers conferred by subsection (1) above, and the powers arising by virtue of subsection (3) above, shall include power to use reasonable force where necessary.

Textual Amendments
F5 Word in s. 9(1)(a) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 20(a)**; S.I. 2007/3001, **art. 2(1)(r)**
F6 Words in s. 9(1)(b) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 16(2)(a)**, 41(1); S.I. 2007/3001, **art. 2(1)(a)**
F7 Words in s. 9(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 16(2)(b)**, 41(1); S.I. 2007/3001, **art. 2(1)(a)**
F8 Word in s. 9(3) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 20(b)**; S.I. 2007/3001, **art. 2(1)(r)**

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[F9 9A Power of custody officers to detain suspected offenders

(1) A custody officer performing custodial duties at a contracted out secure training centre shall have the following powers in relation to any person who is in or is seeking to enter the centre (other than a person detained in the centre).

(2) Where the officer has reason to believe that the person is committing or has committed an offence under any of sections 39 to 40D of the Prison Act 1952, the officer may—

(a) require the person to wait with him for the arrival of a constable for such period as may be necessary (not exceeding two hours); and

(b) use reasonable force to prevent the person from making off while subject to a requirement under paragraph (a).

(3) A person who makes off while subject to such a requirement is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) In subsection (2), a reference to an offence under a particular provision includes a reference to any offence consisting of an attempt to commit, incitement or conspiracy to commit, or aiding, abetting, counselling or procuring the commission of, an offence under that provision.**]**

Textual Amendments

F9 S. 9A inserted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 17(3)**, 41(1); S.I. 2007/3001, **art. 2(1)(b)**

Modifications etc. (not altering text)

C3 S. 9A(2) modified (temp.) (10.10.2007) by The Offender Management Act 2007 (Commencement No.1 and Transitional Provisions) Order 2007 (S.I. 2007/3001), **art. 2(2)**

C4 S. 9A(4) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 6 para. 24** (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

C5 S. 9A(4) modified (prosp.) by Serious Crime Act 2007 (c. 27), ss. 63(1)(2), 94, **Sch. 6 para. 24** (with Sch. 13 para. 5)

10 Intervention by Secretary of State in management of contracted out secure training centres.

(1) This section applies where, in the case of a contracted out secure training centre, it appears to the Secretary of State—

(a) that the director has lost, or is likely to lose, effective control of the secure training centre or any part of it; and

(b) that the making of an appointment under subsection (2) below is necessary in the interests of preserving the safety of any person, or of preventing serious damage to any property.

(2) The Secretary of State may appoint a Crown servant to act as governor of the secure training centre for the period—

(a) beginning with the time specified in the appointment; and

(b) ending with the time specified in the notice of termination under subsection (4) below.

(3) During that period—

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(a) all the functions which would otherwise be exercisable by the director or monitor shall be exercisable by the governor;

(b) the contractor and any sub-contractor of his shall each do all that he reasonably can to facilitate the exercise by the governor of those functions; and

(c) the officers of the secure training centre shall comply with any directions given by the governor in the exercise of those functions.

(4) Where the Secretary of State is satisfied—

(a) that the governor has secured effective control of the secure training centre or, as the case may be, the relevant part of it; and

(b) that the governor's appointment is no longer necessary for the purpose mentioned in subsection (1)(b) above,

he shall, by a notice to the governor, terminate the appointment at a time specified in the notice.

(5) As soon as practicable after making or terminating an appointment under this section, the Secretary of State shall give a notice of the appointment, or a copy of the notice of termination, to the contractor, any sub-contractor of his, the director and the monitor.

11 Contracted out functions at directly managed secure training centres.

(1) The Secretary of State may enter into a contract with another person for any functions at a directly managed secure training centre to be performed by custody officers who are provided by that person and are authorised to perform custodial duties.

(2) **[**F10Sections 9 and 9A**]** shall apply in relation to a custody officer performing contracted out functions at a directly managed secure training centre as **[**F11they apply**]** in relation to such an officer performing custodial duties at a contracted out secure training centre.

(3) In relation to a directly managed secure training centre, the reference in section 13(2) of the M8Prison Act 1952 (legal custody of prisoners) as it applies to secure training centres to an officer of the prison shall be construed as including a reference to a custody officer performing custodial duties at the secure training centre in pursuance of a contract under this section.

(4) Any reference in subsections (1), (2) and (3) above to the performance of functions or custodial duties at a directly managed secure training centre includes a reference to the performance of functions or such duties for the purposes of, or for purposes connected with, such a secure training centre.

Textual Amendments

F10 Words in s. 11(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 17(4)(a)**, 41(1): S.I. 2007/3001, {art. (2)(1)(b)}

F11 Words in s. 11(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 17(4)(b)**, 41(1): S.I. 2007/3001, {art. (2)(1)(b)}

Modifications etc. (not altering text)

C6 S. 11: Transfer of functions (20.4.2000) by S.I 2000/1160, art. 4(1)(2)(i)

Marginal Citations

M8 1952 c. 52.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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12 Escort arrangements and officers.

(1) The provisions of Schedule 1 to this Act (which make provision for escort arrangements **[**F12persons detained in youth detention accommodation**]**) shall have effect.

(2) The provisions of Schedule 2 to this Act shall have effect with respect to the certification of custody officers.

(3) In this Part, "custody officer" means a person in respect of whom a certificate is for the time being in force certifying—

[F13(a) that he has been approved by the Secretary of State for the purpose of performing any of the following—

(i) escort functions;

(ii) custodial duties at secure training centres;**]**

(b) that he is accordingly authorised to perform them.

Textual Amendments

F12 Words in s. 12(1) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 21(1)(a)**; S.I. 2007/3001, **art. 2(1)(r)**

F13 S. 12(3)(a) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 21(1)(b)**; S.I. 2007/3001, **art. 2(1)(r)**

Modifications etc. (not altering text)

C7 S. 12(3): Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(k)(ii)**

13 Protection of custody officers F14. . . .

(1) Any person who assaults a custody officer—

(a) acting in pursuance of escort arrangements;

(b) performing custodial duties at a contracted out secure training centre; or

(c) performing contracted out functions at a directly managed secure training centre,

shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.

(2) Any person who resists or wilfully obstructs a custody officer—

(a) acting in pursuance of escort arrangements;

(b) performing custodial duties at a contracted out secure training centre; or

(c) performing contracted out functions at a directly managed secure training centre,

shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) For the purposes of this section, a custody officer shall not be regarded as acting in pursuance of escort arrangements at any time when he is not readily identifiable as such an officer (whether by means of a uniform or badge which he is wearing or otherwise).

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Textual Amendments

F14 Words in s. 13 sidenote repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), Sch. 3 para. 22, **Sch. 5 Pt. 3**; S.I. 2007/3001, **art. 2(1)(u)**

14 Wrongful disclosure of information relating to [F15persons detained in youth detention accommodation].

(1) A person who—

(a) is or has been employed (whether as a custody officer or otherwise) in pursuance of escort arrangements or at a contracted out secure training centre; or

(b) is or has been employed to perform contracted out functions at a directly managed secure training centre,

commits an offence if he discloses, otherwise than in the course of his duty or as authorised by the Secretary of State, any information which he acquired in the course of his employment and which relates to a particular **[**F16person detained in youth detention accommodation**]** .

(2) A person guilty of an offence under subsection (1) above shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

Textual Amendments

F15 Words in s. 14 sidenote substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 23(2)**; S.I. 2007/3001, **art. 2(1)(r)**

F16 Words in s. 14(1) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 23(1)**; S.I. 2007/3001, **art. 2(1)(r)**

Modifications etc. (not altering text)

C8 S. 14(1): Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(k)(iii)**

15 Interpretation of sections 7 to 14.

In sections 7 to 14—

"contracted out functions" means any functions which, by virtue of a contract under section 11, fall to be performed by custody officers;

"contracted out secure training centre" means a secure training centre or part of a secure training centre in respect of which a contract under section 7(1) is for the time being in force;

"the contractor", in relation to a contracted out secure training centre, means the person who has contracted with the Secretary of State for the provision or running (or the provision and running) of it;

"custodial duties" means custodial duties at a secure training centre;

"directly managed secure training centre" means a secure training centre which is not a contracted out secure training centre;

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"escort arrangements" means the arrangements specified in paragraph 1 of Schedule 1 to this Act;

"escort functions" means the functions specified in paragraph 1 of Schedule 1 to this Act;

"escort monitor" means a person appointed under paragraph 2(1)(a) of Schedule 1 to this Act;

"secure training centre rules" has the meaning given by section 7(4)(b); and

"sub-contractor", in relation to a contracted out secure training centre, means a person who has contracted with the contractor for the running of it or any part of it.

[F17"youth detention accommodation" has the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000.**]**

Textual Amendments

F17 S. 15: definition of "youth detention accommodation" inserted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 24**; S.I. 2007/3007, **art. 2(1)(r)**

Custodial sentences for young offenders

F18 16 . . . . . .

Textual Amendments

F18 S. 16 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

17 Maximum length of detention for young offenders.

(1) Section 1B of the M9Criminal Justice Act 1982 (maximum length of detention in young offender institution for offenders aged 15, 16 or 17 years) shall be amended as follows.

(2) In subsection (2)(b), for the words "12 months" there shall be substituted the words " 24 months ".

(3) In subsection (4), for the words "12 months" there shall be substituted the words " 24 months ".

(4) In subsection (5), for the words "12 months" in both places where they occur there shall be substituted the words " 24 months ".

Marginal Citations

M9 1982 c. 48.

18 Accommodation of young offenders sentenced to custody for life.

F19(1) . . . . . .

F19(2) . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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(3) In section 43(1) of the [M10]Prison Act 1952 (which relates to the institutions for the detention of young offenders which may be provided by the Secretary of State), in paragraph (aa), at the end, there shall be inserted the words " or to custody for life ".

Textual Amendments

F19 S. 18(1)(2) repealed (25.8.2000) by ss. 165, 168, Sch. 12, Pt. I (with Sch. 11 paras. 1, 2)

Marginal Citations

M10 1952 c. 52.

Secure accommodation for certain young persons

19 Extension of kinds of secure accommodation.

(1) Section 23 of the [M11]Children and Young Persons Act 1969 (remands and committals to local authority accommodation) shall be amended by the insertion, in subsection (12), in the definition of "secure accommodation", after the words "community home", of the words ", a voluntary home or a registered children's home", and, at the end of that subsection, of the words "but, for the purposes of the definition of "secure accommodation", "local authority accommodation" includes any accommodation falling within section 61(2) of the [M12]Criminal Justice Act 1991.".

(2) In the [M13]Children Act 1989, Schedules 5 and 6 (which provide for the regulation of voluntary homes and registered childrens' homes respectively) shall be amended as follows, that is to say—

(a) in Schedule 5, in paragraph 7(2) (regulations as to conduct of voluntary homes)—

(i) head (f) (power to prohibit provision of secure accommodation) shall be omitted; and

(ii) after that head, there shall be inserted the following—

"(ff) require the approval of the Secretary of State for the provision and use of accommodation for the purpose of restricting the liberty of children in such homes and impose other requirements (in addition to those imposed by section 25) as to the placing of a child in accommodation provided for that purpose, including a requirement to obtain the permission of any local authority who are looking after the child;"; and

(b) in Schedule 6, in paragraph 10(2) (regulations as to conduct, etc. of registered childrens' homes)—

(i) head (j) (power to prohibit use of accommodation as secure accommodation) shall be omitted; and

(ii) after that head, there shall be inserted the following—

"(jj) require the approval of the Secretary of State for the provision and use of accommodation for the purpose of restricting the liberty of children in such homes and impose other requirements (in addition to those imposed by section 25) as to the placing of a child in accommodation provided for that purpose, including

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a requirement to obtain the permission of any local authority who are looking after the child.".

(3) In section 61 of the Criminal Justice Act 1991 (provision by local authorities of secure accommodation)—

(a) in subsection (2), at the end, there shall be inserted the words " or by making arrangements with voluntary organisations or persons carrying on a registered childrens' home for the provision or use by them of such accommodation or by making arrangements with the Secretary of State for the use by them of a home provided by him under section 82(5) of the Children Act 1989 "; and

(b) in subsection (5), at the end, there shall be inserted the words " and expressions, other than "local authority", used in the [M14]Children Act 1989 have the same meanings as in that Act. ".

Marginal Citations

M11 1969 c. 54.
M12 1991 c. 53.
M13 1989 c. 41.
M14 1989 c. 41.

[F20]20 . . . . . .

Textual Amendments

F20 S. 20 repealed and superseded (1.6.1999) by 1998 c. 37, s. 97(5), 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/1279, **art. 2(g)(ii)**

PROSPECTIVE

[F21]21 Cost of secure accommodation.

. . . . . .

Textual Amendments

F21 S. 21 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 34**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

22 Management of secure accommodation.

(1) The Children Act 1989 shall be amended as follows.

(2) In section 53 (provision and management of community homes)—

(a) in subsection (3) (homes which may be community homes)—

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(i) in paragraph (a), for the words "managed, equipped and maintained" there shall be substituted the words " equipped, maintained and (subject to subsection (3A)) managed "; and

(ii) in paragraph (b)(i), for the words "management, equipment and maintenance" there shall be substituted the words " equipment, maintenance and (subject to subsection (3B)) management "; and

(b) after subsection (3) there shall be inserted the following subsections—

"(3A) A local authority may make arrangements for the management by another person of accommodation provided by the local authority for the purpose of restricting the liberty of children.

(3B) Where a local authority are to be responsible for the management of a community home provided by a voluntary organisation, the local authority may, with the consent of the body of managers constituted by the instrument of management for the home, make arrangements for the management by another person of accommodation provided for the purpose of restricting the liberty of children.".

(3) In Part II of Schedule 4 (management of controlled and assisted community homes)—

(a) in paragraph 3(4), after the word "managers" there shall be inserted the words " , except in so far as, under section 53(3B), any of the accommodation is to be managed by another person. "; and

(b) in paragraph 3(5), after the word "body" there shall be inserted the words " ; and similarly, to the extent that a contract so provides, as respects anything done, liability incurred or property acquired by a person by whom, under section 53(3B), any of the accommodation is to be managed ".

Arrest of young persons in breach of conditions of remand

23 Liability of young persons to arrest for breaking conditions of remand.

After section 23 of the [M15]Children and Young Persons Act 1969 there shall be inserted the following section—

"**23A Liability to arrest for breaking conditions of remand.**

(1) A person who has been remanded or committed to local authority accommodation and in respect of whom conditions under subsection (7) or (10) of section 23 of this Act have been imposed may be arrested without warrant by a constable if the constable has reasonable grounds for suspecting that that person has broken any of those conditions.

(2) A person arrested under subsection (1) above—

(a) shall, except where he was arrested within 24 hours of the time appointed for him to appear before the court in pursuance of the remand or committal, be brought as soon as practicable and in any event within 24 hours after his arrest before a justice of the peace for the petty sessions area in which he was arrested; and

(b) in the said excepted case shall be brought before the court before which he was to have appeared.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

(3) A justice of the peace before whom a person is brought under subsection (2) above—

(a) if of the opinion that that person has broken any condition imposed on him under subsection (7) or (10) of section 23 of this Act shall remand him; and that section shall apply as if he was then charged with or convicted of the offence for which he had been remanded or committed;

(b) if not of that opinion shall remand him to the place to which he had been remanded or committed at the time of his arrest subject to the same conditions as those which had been imposed on him at that time.".

Commencement Information

I2 S. 23 wholly in force at 3.2.1995; s. 23 not in force at Royal Assent see s. 172; s. 23 in force at 3.2.1995 by S.I. 1995/127, art. 2(1), **Sch. 1** (with savings in art. 2(2)(3), Sch. 2)

Marginal Citations

M15 1969 c. 54.

Police detention of young persons

24 Detention of arrested juveniles after charge.

In section 38(6) of the [M16]Police and Criminal Evidence Act 1984 (detention of arrested juveniles after charge), in paragraph (b), for the words "age of 15 years" there shall be substituted the words " age of 12 years ".

Marginal Citations

M16 1984 c. 60.

PART II

BAIL

25 No bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences.

(1) A person who in any proceedings has been charged with or convicted of an offence to which this section applies in circumstances to which it applies **[**[F22]shall be granted bail in those proceedings only if the court or, as the case may be, the constable considering the grant of bail is satisfied that there are exceptional circumstances which justify it**]**.

(2) This section applies, subject to subsection (3) below, to the following offences, that is to say—

(a) murder;

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(b) attempted murder;

(c) manslaughter;

[F23(d) rape under the law of Scotland F24...;

(e) an offence under section 1 of the Sexual Offences Act 1956 (rape);

(f) an offence under section 1 of the Sexual Offences Act 2003 (rape);

(g) an offence under section 2 of that Act (assault by penetration);

(h) an offence under section 4 of that Act (causing a person to engage in sexual activity without consent), where the activity caused involved penetration within subsection (4)(a) to (d) of that section;

(i) an offence under section 5 of that Act (rape of a child under 13);

(j) an offence under section 6 of that Act (assault of a child under 13 by penetration);

(k) an offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity), where an activity involving penetration within subsection (3)(a) to (d) of that section was caused;

(l) an offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice), where the touching involved penetration within subsection (3)(a) to (d) of that section;

(m) an offence under section 31 of that Act (causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity), where an activity involving penetration within subsection (3)(a) to (d) of that section was caused;

[F25(ma) an offence under Article 5 of the Sexual Offences (Northern Ireland) Order 2008 (rape);

(mb) an offence under Article 6 of that Order (assault by penetration);

(mc) an offence under Article 8 of that Order (causing a person to engage in sexual activity without consent) where the activity caused involved penetration within paragraph (4)(a) to (d) of that Article;

(md) an offence under Article 12 of that Order (rape of a child under 13);

(me) an offence under Article 13 of that Order (assault of a child under 13 by penetration);

(mf) an offence under Article 15 of that Order (causing or inciting a child under 13 to engage in sexual activity) where an activity involving penetration within paragraph (2)(a) to (d) of that Article was caused;

(mg) an offence under Article 43 of that Order (sexual activity with a person with a mental disorder impeding choice) where the touching involved penetration within paragraph (3)(a) to (d) of that Article;

(mh) an offence under Article 44 of that Order (causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity) where an activity involving penetration within paragraph (3)(a) to (d) of that Article was caused;**]**

(n) an attempt to commit an offence within any of paragraphs (d) to **[**F26(mh)**]**.**]**

[F27(3) This section applies in the circumstances described in subsection (3A) or (3B) only.

(3A) This section applies where—

(a) the person has been previously convicted by or before a court in any part of the United Kingdom of any offence within subsection (2) or of culpable homicide, and

(b) if that previous conviction is one of manslaughter or culpable homicide—

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(i) the person was then a child or young person, and was sentenced to long-term detention under any of the relevant enactments, or

(ii) the person was not then a child or young person, and was sentenced to imprisonment or detention.

(3B) This section applies where—

(a) the person has been previously convicted by or before a court in another member State of any relevant foreign offence corresponding to an offence within subsection (2) or to culpable homicide, and

(b) if the previous conviction is of a relevant foreign offence corresponding to the offence of manslaughter or culpable homicide—

(i) the person was then a child or young person, and was sentenced to detention for a period in excess of 2 years, or

(ii) the person was not then a child or young person, and was sentenced to detention.**]**

(4) This section applies whether or not an appeal is pending against conviction or sentence.

(5) In this section—

"conviction" includes—

(a) a finding that a person is not guilty by reason of insanity;

(b) a finding under section 4A(3) of the [M17]Criminal Procedure (Insanity) Act 1964 (cases of unfitness to plead) that a person did the act or made the omission charged against him; and

(c) a conviction of an offence for which an order is made [F28]. . . discharging **[**[F29]the offender**]** absolutely or conditionally;

and "convicted" shall be construed accordingly; [F30]...

[[F31]"relevant foreign offence", in relation to a member State other than the United Kingdom, means an offence under the law in force in that member State.**]**

"the relevant enactments" means—

(a) as respects England and Wales, **[**[F32]section 91 of the Powers of Criminal Courts (Sentencing) Act 2000**]**;

[[F33](b) as respects Scotland, sections 205(1) to (3) and 208 of the Criminal Procedure (Scotland) Act 1995;**]**

(c) as respects Northern Ireland, section 73(2) of the [M18]Children and Young Persons Act (Northern Ireland) 1968.

[[F34](5A) For the purposes of subsection (3B), a relevant foreign offence corresponds to another offence if the relevant foreign offence would have constituted that other offence if it had been done in any part of the United Kingdom at the time when the relevant foreign offence was committed.**]**

(6) This section does not apply in relation to proceedings instituted before its commencement.

Textual Amendments

F22 Words in s. 25(1) substituted (30.9.1998) by 1998 c. 37, **s. 56** (with Sch. 9); S.I. 1998/2327, **art. 2(1)(n)**

F23 S. 25(2)(d)-(n) substituted (1.5.2004) for s. 25(2)(d)(e) by Sexual Offences Act 2003 (c. 42), ss. 141, 139, **Sch. 6 para. 32(2)**; S.I. 2004/874, **art. 2**

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F24 Words in s. 25(2)(d) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **16(2)**

F25 S. 25(2)(ma)-(mh) inserted (2.2.2009) by The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **16(3)(a)**

F26 Word in s. 25(2)(n) substituted (2.2.2009) by The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **16(3)(b)**

F27 S. 25(3)-(3B) substituted for s. 25(3) (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 3(2)** (with s. 180); S.I. 2010/1858, art. 3(d)(ii)

F28 Words in s. 25(5) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 332, 336, Sch. 32 para. 67(a), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 paras. 23, 42(27), 44(4)(m) (subject to art. 2(2) and Sch. 2) (as amended by S.I. 2005/2122, art. 2)

F29 Words in s. 25(5) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336, **Sch. 32 para. 67(b)**; S.I. 2005/950, **art. 2**, Sch. 1 paras. 23, 42(27) (subject to art. 2(2) and Sch. 2) (as amended by S.I. 2005/2122, art. 2)

F30 Word in s. 25(5) repealed (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), Sch. 17 para. 3(3), **Sch. 23 Pt. 5** (with s. 180); S.I. 2010/1858, art. 3(d)(f)(ii)

F31 Words in s. 25(5) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 3(3)** (with s. 180); S.I. 2010/1858, art. 3(d)(ii)

F32 S. 25(5): Words in para. (a) of the definition of "the relevant enactments" substituted (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 9 para. 160**

F33 S. 25(5): sub-para.(b) in definition of "the relevant enactments" substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(2)** (with s. 4, Sch. 3)

F34 S. 25(5A) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 3(4)** (with s. 180); S.I. 2010/1858, art. 3(d)(ii)

Marginal Citations

M17 1964 c. 84.

M18 1968 c. 34 (N.I.).

26 No right to bail for persons accused or convicted of committing offence while on bail.

In Part I of Schedule 1 to the [M19]Bail Act 1976 (exceptions to right to bail for imprisonable offences)—

(a) after paragraph 2, there shall be inserted the following paragraph—

"2A The defendant need not be granted bail if—

(a) the offence is an indictable offence or an offence triable either way; and

(b) it appears to the court that he was on bail in criminal proceedings on the date of the offence."; and

(b) in paragraph 9, after the words "paragraph 2" there shall be inserted the words " or 2A ".

Marginal Citations

M19 1976 c. 63.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

27 Power for police to grant conditional bail to persons charged.

(1) Part IV of the [M20]Police and Criminal Evidence Act 1984 (detention of persons, including powers of police to grant bail) shall have effect with the following amendments, that is to say, in section 47 (bail after arrest)—

(a) in subsection (1), for the words after "in accordance with" there shall be substituted the words " sections 3, 3A, 5 and 5A of the Bail Act 1976 as they apply to bail granted by a constable "; and

(b) after subsection (1) there shall be inserted the following subsection—

"(1A) The normal powers to impose conditions of bail shall be available to him where a custody officer releases a person on bail under section 38(1) above (including that subsection as applied by section 40(10) above) but not in any other cases.

In this subsection, "the normal powers to impose conditions of bail" has the meaning given in section 3(6) of the Bail Act 1976.".

(2) Section 3 of the Bail Act 1976 (incidents including conditions of bail in criminal proceedings) shall be amended as follows—

(a) in subsection (6), the words "(but only by a court)" shall be omitted;

(b) at the end of subsection (6) there shall be inserted— " and, in any Act, "the normal powers to impose conditions of bail" means the powers to impose conditions under paragraph (a), (b) or (c) above ";

(c) after subsection (9), there shall be inserted the following subsection—

"(10) This section is subject, in its application to bail granted by a constable, to section 3A of this Act.".

(3) After section 3 of the [M21]Bail Act 1976 there shall be inserted the following section—

"**3A Conditions of bail in case of police bail.**

(1) Section 3 of this Act applies, in relation to bail granted by a custody officer under Part IV of the [M22]Police and Criminal Evidence Act 1984 in cases where the normal powers to impose conditions of bail are available to him, subject to the following modifications.

(2) Subsection (6) does not authorise the imposition of a requirement to reside in a bail hostel or any requirement under paragraph (d).

(3) Subsections (6ZA), (6A) and (6B) shall be omitted.

(4) For subsection (8), substitute the following—

(") Where a custody officer has granted bail in criminal proceedings he or another custody officer serving at the same police station may, at the request of the person to whom it was granted, vary the conditions of bail; and in doing so he may impose conditions or more onerous conditions.".

(5) Where a constable grants bail to a person no conditions shall be imposed under subsections (4), (5), (6) or (7) of section 3 of this Act unless it appears to the constable that it is necessary to do so for the purpose of preventing that person from—

(a) failing to surrender to custody, or

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(b) committing an offence while on bail, or

(c) interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself or any other person.

(6) Subsection (5) above also applies on any request to a custody officer under subsection (8) of section 3 of this Act to vary the conditions of bail.".

(4) The further amendments contained in Schedule 3 to this Act shall have effect.

Marginal Citations

M20 1984 c. 60.

M21 1976 c. 63.

M22 1984 c. 60.

28 Police detention after charge.

(1) Section 38 of the Police and Criminal Evidence Act 1984 (which requires an arrested person charged with an offence to be released except in specified circumstances) shall be amended as follows.

(2) In subsection (1)(a), for sub-paragraphs (ii) and (iii) there shall be substituted the following sub-paragraphs—

"(ii) the custody officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer to bail;

(iii) in the case of a person arrested for an imprisonable offence, the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from committing an offence;

(iv) in the case of a person arrested for an offence which is not an imprisonable offence, the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from causing physical injury to any other person or from causing loss of or damage to property;

(v) the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from interfering with the administration of justice or with the investigation of offences or of a particular offence; or

(vi) the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection;".

(3) After subsection (2), there shall be inserted the following subsection—

"(2A) The custody officer, in taking the decisions required by subsection (1)(a) and (b) above (except (a)(i) and (vi) and (b)(ii)), shall have regard to the same considerations as those which a court is required to have regard to in taking the corresponding decisions under paragraph 2 of Part I of Schedule 1 to the [M23]Bail Act 1976.".

(4) After subsection (7), there shall be inserted the following subsection—

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"(7A) In this section "imprisonable offence" has the same meaning as in Schedule 1 to the Bail Act 1976.".

Marginal Citations
M23 1976 c. 63.

29 Power for police to arrest for failure to answer to police bail.

(1) Part IV of the [M24]Police and Criminal Evidence Act 1984 (detention of persons, including powers of police to grant bail) shall be amended as follows.

(2) After section 46 there shall be inserted the following section—

"**46A Power of arrest for failure to answer to police bail.**

(1) A constable may arrest without a warrant any person who, having been released on bail under this Part of this Act subject to a duty to attend at a police station, fails to attend at that police station at the time appointed for him to do so.

(2) A person who is arrested under this section shall be taken to the police station appointed as the place at which he is to surrender to custody as soon as practicable after the arrest.

(3) For the purposes of—
(a) section 30 above (subject to the obligation in subsection (2) above), and
(b) section 31 above,
an arrest under this section shall be treated as an arrest for an offence.".

(3) [F35]. . . . . .

(4) In consequence of the foregoing amendments—
(a) in section 37(1), paragraph (b) shall be omitted;
(b) in sections 41(9), 42(11) and 43(19), at the end, there shall be inserted the words "; but this subsection does not prevent an arrest under section 46A below.";
(c) in section 47, subsection (5) shall be omitted;
(d) in section 47(6), for the words "is detained under subsection (5) above" there shall be substituted the words " who has been granted bail and either has attended at the police station in accordance with the grant of bail or has been arrested under section 46A above is detained at a police station "; and
(e) in section 47(7), at the end, there shall be inserted the words " ; but this subsection does not apply to a person who is arrested under section 46A above or has attended a police station in accordance with the grant of bail (and who accordingly is deemed by section 34(7) above to have been arrested for an offence). ".

(5) This section applies whether the person released on bail was granted bail before or after the commencement of this section.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F35 S. 29(3) repealed (20.1.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 1**; S.I. 2004/84, **art. 2(2)(g)(ii)**

Marginal Citations

M24 1984 c. 60.

30 Reconsideration of decisions granting bail.

After the section 5A of the [M25]Bail Act 1976 inserted by Schedule 3 to this Act there shall be inserted the following section—

"**5B Reconsideration of decisions granting bail.**

(1) Where a magistrates' court has granted bail in criminal proceedings in connection with an offence, or proceedings for an offence, to which this section applies or a constable has granted bail in criminal proceedings in connection with proceedings for such an offence, that court or the appropriate court in relation to the constable may, on application by the prosecutor for the decision to be reconsidered,—

(a) vary the conditions of bail,

(b) impose conditions in respect of bail which has been granted unconditionally, or

(c) withhold bail.

(2) The offences to which this section applies are offences triable on indictment and offences triable either way.

(3) No application for the reconsideration of a decision under this section shall be made unless it is based on information which was not available to the court or constable when the decision was taken.

(4) Whether or not the person to whom the application relates appears before it, the magistrates' court shall take the decision in accordance with section 4(1) (and Schedule 1) of this Act.

(5) Where the decision of the court on a reconsideration under this section is to withhold bail from the person to whom it was originally granted the court shall—

(a) if that person is before the court, remand him in custody, and

(b) if that person is not before the court, order him to surrender himself forthwith into the custody of the court.

(6) Where a person surrenders himself into the custody of the court in compliance with an order under subsection (5) above, the court shall remand him in custody.

(7) A person who has been ordered to surrender to custody under subsection (5) above may be arrested without warrant by a constable if he fails without reasonable cause to surrender to custody in accordance with the order.

(8) A person arrested in pursuance of subsection (7) above shall be brought as soon as practicable, and in any event within 24 hours after his arrest, before a justice

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of the peace for the petty sessions area in which he was arrested and the justice shall remand him in custody.

In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.

(9) Magistrates' court rules shall include provision—

(a) requiring notice of an application under this section and of the grounds for it to be given to the person affected, including notice of the powers available to the court under it;

(b) for securing that any representations made by the person affected (whether in writing or orally) are considered by the court before making its decision; and

(c) designating the court which is the appropriate court in relation to the decision of any constable to grant bail.".

Marginal Citations

M25 1976 c. 63.

PART III

COURSE OF JUSTICE: EVIDENCE, PROCEDURE, ETC.

Imputations on character

31 Imputations on character.

F36 . . . . . .

Textual Amendments

F36 S. 31 repealed (15.12.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 5**; S.I. 2004/3033, **art. 3(2)(e)(i)**

Commencement Information

I3 S. 31 wholly in force at 3.2.1995; s. 31 not in force at Royal Assent see s. 172; s. 31 in force at 3.2.1995 subject to transitional provisions by S.I. 1995/127, art. 2, **Sch. 1** (with art. 2(2), Sch. 2)

Corroboration

32 Abolition of corroboration rules.

(1) Any requirement whereby at a trial on indictment it is obligatory for the court to give the jury a warning about convicting the accused on the uncorroborated evidence of a person merely because that person is—

(a) an alleged accomplice of the accused, or

(b) where the offence charged is a sexual offence, the person in respect of whom it is alleged to have been committed,

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is hereby abrogated.

(2) In section 34(2) of the [M26]Criminal Justice Act 1988 (abolition of requirement of corroboration warning in respect of evidence of a child) the words from "in relation to" to the end shall be omitted.

(3) Any requirement that—

(a) is applicable at the summary trial of a person for an offence, and

(b) corresponds to the requirement mentioned in subsection (1) above or that mentioned in section 34(2) of the Criminal Justice Act 1988,

is hereby abrogated.

(4) Nothing in this section applies in relation to—

(a) any trial, or

(b) any proceedings before a magistrates' court as examining justices,

which began before the commencement of this section.

Modifications etc. (not altering text)
C9 S. 32 explained by 1996 c. 46, **s. 6(1)(2)**; S.I. 1996/2474, **art. 2** (with art. 3)

Marginal Citations
M26 1988 c. 33.

33 Abolition of corroboration requirements under Sexual Offences Act 1956.

(1) The following provisions of the [M27]Sexual Offences Act 1956 (which provide that a person shall not be convicted of the offence concerned on the evidence of one witness only unless the witness is corroborated) are hereby repealed—

(a) section 2(2) (procurement of woman by threats),

(b) section 3(2) (procurement of woman by false pretences),

(c) section 4(2) (administering drugs to obtain or facilitate intercourse),

(d) section 22(2) (causing prostitution of women), and

(e) section 23(2) (procuration of girl under twenty-one).

(2) Nothing in this section applies in relation to—

(a) any trial, or

(b) any proceedings before a magistrates' court as examining justices,

which began before the commencement of this section.

Marginal Citations
M27 1956 c. 69.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Inferences from accused's silence

34 Effect of accused's failure to mention facts when questioned or charged.

(1) Where, in any proceedings against a person for an offence, evidence is given that the accused—

(a) at any time before he was charged with the offence, on being questioned under caution by a constable trying to discover whether or by whom the offence had been committed, failed to mention any fact relied on in his defence in those proceedings; or

(b) on being charged with the offence or officially informed that he might be prosecuted for it, failed to mention any such fact,

being a fact which in the circumstances existing at the time the accused could reasonably have been expected to mention when so questioned, charged or informed, as the case may be, subsection (2) below applies.

(2) Where this subsection applies—

[F37(a) a magistrates' court inquiring into the offence as examining justices;**]**

(b) a judge, in deciding whether to grant an application made by the accused under**[**F38 paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998**]**

(c) the court, in determining whether there is a case to answer;

and

(d) the court or jury, in determining whether the accused is guilty of the offence charged,

may draw such inferences from the failure as appear proper.

[F39(2A) Where the accused was at an authorised place of detention at the time of the failure, subsections (1) and (2) above do not apply if he had not been allowed an opportunity to consult a solicitor prior to being questioned, charged or informed as mentioned in subsection (1) above.**]**

(3) Subject to any directions by the court, evidence tending to establish the failure may be given before or after evidence tending to establish the fact which the accused is alleged to have failed to mention.

(4) This section applies in relation to questioning by persons (other than constables) charged with the duty of investigating offences or charging offenders as it applies in relation to questioning by constables; and in subsection (1) above "officially informed" means informed by a constable or any such person.

(5) This section does not—

(a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from this section; or

(b) preclude the drawing of any inference from any such silence or other reaction of the accused which could properly be drawn apart from this section.

(6) This section does not apply in relation to a failure to mention a fact if the failure occurred before the commencement of this section.

F40(7) . . . . . .

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Textual Amendments

F37 S. 34(2)(a) substituted (5.7.1996) by 1996 c. 25 , s. 44(3)(7) (with s. 78(1))

F38 S. 34(2)(b): words substituted for s. 34(2)(b)(i)(ii) (9.5.2005 for specified purposes, otherwise prosp.) by Criminal Justice Act 2003 (44), 41, 336, {Sch. 3 para. 64(2)(b)}; S.I. 2005/1267, **art. 2(2)**, Sch. para. 1(1)(p)

F39 S. 34(2A) inserted (1.4.2003) by 1999 c. 23, ss. 58(2), 68(3) (with Sch. 7 paras. 5(2), 8); S.I. 2003/707, **art. 2(a)**

F40 S. 34(7) repealed (5.7.1996) by 1996 c. 25, ss. 44(4)(7), 80, **Sch. 5** Table 1, Note 2 (with s. 78(1))

Modifications etc. (not altering text)

C10 S. 34: power to apply (with modifications) conferred (E.W.) (1.10.2002) by 2002 c. 30, **s. 36(1)(c)**; S.I. 2002/2306, **art. 2(c)(iii)**
S. 34: power to apply (with modifications) conferred (E.W.) (1.10.2002) by 1997 c. 50, **s. 37(2A)(d)** (as inserted (1.10.2002) by 2002 c. 30, **s. 88(2)**; S.I. 2002/2306, **art. 2(f)(iv)**)
S. 34: power to apply (with modifications) conferred (E.W.) (1.10.2002) by 1997 c. 50, **s. 81(2A)(d)** (as inserted (1.10.2002) by 2002 c. 30, **s. 89(2)**; S.I. 2002/2306, **art. 2(f)(iv)**)

C11 Ss. 34-38 applied (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), **Sch.**

C12 S. 34 applied in part (with modifications) (26.9.2006) by The Criminal Justice and Public Order Act 1994 (Application to the Armed Forces) Order 2006 (S.I. 2006/2326), **art. 3** Sch. 1

C13 S. 34(1) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C14 S. 34(2) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C15 S. 34(2A) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C16 S. 34(3) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C17 S. 34(5) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C18 S. 34(6) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

35 Effect of accused's silence at trial.

(1) At the trial of any person [F41]. . . for an offence, subsections (2) and (3) below apply unless—

(a) the accused's guilt is not in issue; or

(b) it appears to the court that the physical or mental condition of the accused makes it undesirable for him to give evidence;

but subsection (2) below does not apply if, at the conclusion of the evidence for the prosecution, his legal representative informs the court that the accused will give evidence or, where he is unrepresented, the court ascertains from him that he will give evidence.

(2) Where this subsection applies, the court shall, at the conclusion of the evidence for the prosecution, satisfy itself (in the case of proceedings on indictment **[**[F42]with a jury**]** , in the presence of the jury) that the accused is aware that the stage has been reached at which evidence can be given for the defence and that he can, if he wishes, give evidence and that, if he chooses not to give evidence, or having been sworn, without good cause refuses to answer any question, it will be permissible for the court or jury to

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draw such inferences as appear proper from his failure to give evidence or his refusal, without good cause, to answer any question.

(3) Where this subsection applies, the court or jury, in determining whether the accused is guilty of the offence charged, may draw such inferences as appear proper from the failure of the accused to give evidence or his refusal, without good cause, to answer any question.

(4) This section does not render the accused compellable to give evidence on his own behalf, and he shall accordingly not be guilty of contempt of court by reason of a failure to do so.

(5) For the purposes of this section a person who, having been sworn, refuses to answer any question shall be taken to do so without good cause unless—

(a) he is entitled to refuse to answer the question by virtue of any enactment, whenever passed or made, or on the ground of privilege; or

(b) the court in the exercise of its general discretion excuses him from answering it.

F43(6) . . . . . .

(7) This section applies—

(a) in relation to proceedings on indictment for an offence, only if the person charged with the offence is arraigned on or after the commencement of this section;

(b) in relation to proceedings in a magistrates' court, only if the time when the court begins to receive evidence in the proceedings falls after the commencement of this section.

Textual Amendments

F41 Words in s. 35(1) repealed (30.9.1998) by 1998 c. 37, ss. 35(a), 120(1)(2), Sch. 9 para. 2, **Sch. 10** (with Sch. 9); S.I. 1998/2327, **art. 2(1)(z)(aa)(3)(v)**

F42 Words in s. 35(2) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I., otherwise prosp.) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 para. 63**; S.I. 2006/1835, **art. 2(h)** (subject to art. 3); S.I. 2006/3422, **art. 2(c)(i)**

F43 S. 35(6) repealed (30.9.1998) by 1998 c. 37, ss. 35(b), 120(1)(2), Sch. 9 para. 2, **Sch. 10** (with Sch. 9); S.I. 1998/2327, **art. 2(1)(z)(aa)(3)(v)**

Modifications etc. (not altering text)

C19 Ss. 34-38 applied in part (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), Sch. (as amended (26.9.2006) by S.I. 2006/2326, **art. 2(2)**)

C20 S. 35(1) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C21 S. 35(2) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C22 S. 35(3) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C23 S. 35(4)(5) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

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36 Effect of accused's failure or refusal to account for objects, substances or marks.

(1) Where—

(a) a person is arrested by a constable, and there is—

(i) on his person; or

(ii) in or on his clothing or footwear; or

(iii) otherwise in his possession; or

(iv) in any place in which he is at the time of his arrest,

any object, substance or mark, or there is any mark on any such object; and

(b) that or another constable investigating the case reasonably believes that the presence of the object, substance or mark may be attributable to the participation of the person arrested in the commission of an offence specified by the constable; and

(c) the constable informs the person arrested that he so believes, and requests him to account for the presence of the object, substance or mark; and

(d) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence so specified, evidence of those matters is given, subsection (2) below applies.

(2) Where this subsection applies—

[F44(a) a magistrates' court inquiring into the offence as examining justices;**]**

(b) a judge, in deciding whether to grant an application made by the accused under**[**F45 paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998**]**

(c) the court, in determining whether there is a case to answer; and

(d) the court or jury, in determining whether the accused is guilty of the offence charged,

may draw such inferences from the failure or refusal as appear proper.

(3) Subsections (1) and (2) above apply to the condition of clothing or footwear as they apply to a substance or mark thereon.

(4) Subsections (1) and (2) above do not apply unless the accused was told in ordinary language by the constable when making the request mentioned in subsection (1)(c) above what the effect of this section would be if he failed or refused to comply with the request.

[F46(4A) Where the accused was at an authorised place of detention at the time of the failure or refusal, subsections (1) and (2) above do not apply if he had not been allowed an opportunity to consult a solicitor prior to the request being made.**]**

(5) This section applies in relation to officers of customs and excise as it applies in relation to constables.

(6) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for the presence of an object, substance or mark or from the condition of clothing or footwear which could properly be drawn apart from this section.

(7) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.

F47(8) . . . . . .

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Textual Amendments

F44 S. 36(2)(a) substituted (5.7.1996) by 1996 c. 25, **s. 44(3)(7)** (with s. 78(1))

F45 S. 36(2)(b): words substituted for s. 36(2)(b)(i)(ii) (9.5.2005 for specified purposes, otherwise prosp.) by Criminal Justice Act 2003 (44), 41, 336, {Sch. 3 para. 64(3)(b)}; S.I. 2005/1267, **art. 2(2)**, Sch. para. 1(1)(p)

F46 S. 36(4A) inserted (1.4.2003) by 1999 c. 23, ss. 58(3), 68(3) (with Sch. 7 paras. 5(2), 8); S.I. 2003/707, **art. 2(a)**

F47 S. 36(8) repealed (5.7.1996) by 1996 c. 25, ss. 44(4)(7), 80, **Sch. 5** Table 1, Note 2 (with s. 78(1))

Modifications etc. (not altering text)

C24 S. 36 applied (with modifications) (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 21**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

C25 Ss. 34-38 applied (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), **Sch.**

C26 S. 36(1) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C27 S. 36(1)(b)(c) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

C28 S. 36(1)(c) extended (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(a)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

C29 S. 36(2) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C30 S. 36(3) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C31 S. 36(4) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

C32 S. 36(4) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C33 S. 36(4A) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C34 S. 36(6) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C35 S. 36(7) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

37 Effect of accused's failure or refusal to account for presence at a particular place.

(1) Where—

(a) a person arrested by a constable was found by him at a place at or about the time the offence for which he was arrested is alleged to have been committed; and

(b) that or another constable investigating the offence reasonably believes that the presence of the person at that place and at that time may be attributable to his participation in the commission of the offence; and

(c) the constable informs the person that he so believes, and requests him to account for that presence; and

(d) the person fails or refuses to do so,

then if, in any proceedings against the person for the offence, evidence of those matters is given, subsection (2) below applies.

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(2) Where this subsection applies—

[F48(a) a magistrates' court inquiring into the offence as examining justices;**]**

(b) a judge, in deciding whether to grant an application made by the accused under**[**F49 paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998**]**

(c) the court, in determining whether there is a case to answer; and

(d) the court or jury, in determining whether the accused is guilty of the offence charged,

may draw such inferences from the failure or refusal as appear proper.

(3) Subsections (1) and (2) do not apply unless the accused was told in ordinary language by the constable when making the request mentioned in subsection (1)(c) above what the effect of this section would be if he failed or refused to comply with the request.

[F50(3A) Where the accused was at an authorised place of detention at the time of the failure or refusal, subsections (1) and (2) do not apply if he had not been allowed an opportunity to consult a solicitor prior to the request being made.**]**

(4) This section applies in relation to officers of customs and excise as it applies in relation to constables.

(5) This section does not preclude the drawing of any inference from a failure or refusal of the accused to account for his presence at a place which could properly be drawn apart from this section.

(6) This section does not apply in relation to a failure or refusal which occurred before the commencement of this section.

F51(7) . . . . . .

Textual Amendments

F48 S. 37(2)(a) substituted (5.7.1996) by 1996 c. 25, **s. 44(3)(7)** (with s. 78(1))

F49 S. 37(2)(b): words substituted for s. 37(2)(b)(i)(ii) (9.5.2005 for specified purposes, otherwise prosp.) by Criminal Justice Act 2003 (44), 41, 336, {Sch. 3 para. 64(4)(b)}; S.I. 2005/1267, **art. 2(2)**, Sch. para. 1(1)(p)

F50 S. 37(3A) inserted (1.4.2003) by 1999 c. 23, ss. 58(4), 68(3) (with Sch. 7 paras. 5(2), 8); S.I. 2003/707, **art. 2(a)**

F51 S. 37(7) repealed (5.7.1996) by 1996 c. 25, ss. 44(4)(7), 80, **Sch. 5** Table 1, Note 2 (with s. 78(1)))

Modifications etc. (not altering text)

C36 Ss. 34-38 applied (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), **Sch.**

C37 S. 37(1) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C38 S. 37(1)(b)(c) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

C39 S. 37(1)(c) extended (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(a)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

C40 S. 37(2) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C41 S. 37(3) modified (E.W.) (2.12.2002) by 2002 c. 30, s. 38, **Sch. 4 Pt. 2 para. 23(b)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

C42 S. 37(3) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

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C43 S. 37(3A) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C44 S. 37(5) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C45 S. 37(6) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

38 Interpretation and savings for sections 34, 35, 36 and 37.

(1) In sections 34, 35, 36 and 37 of this Act—

"legal representative" means **[**[F52]a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act); and**]**

"place" includes any building or part of a building, any vehicle, vessel, aircraft or hovercraft and any other place whatsoever.

(2) In sections 34(2), 35(3), 36(2) and 37(2), references to an offence charged include references to any other offence of which the accused could lawfully be convicted on that charge.

[[F53](2A) In each of sections 34(2A), 36(4A) and 37(3A) " authorised place of detention " means —

(a) a police station; or

(b) any other place prescribed for the purposes of that provision by order made by the Secretary of State;

and the power to make an order under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

(3) A person shall not have the proceedings against him transferred to the Crown Court for trial, have a case to answer or be convicted of an offence solely on an inference drawn from such a failure or refusal as is mentioned in section 34(2), 35(3), 36(2) or 37(2).

(4) A judge shall not refuse to grant such an application as is mentioned in section 34(2)(b), 36(2)(b) and 37(2)(b) solely on an inference drawn from such a failure as is mentioned in section 34(2), 36(2) or 37(2).

(5) Nothing in sections 34, 35, 36 or 37 prejudices the operation of a provision of any enactment which provides (in whatever words) that any answer or evidence given by a person in specified circumstances shall not be admissible in evidence against him or some other person in any proceedings or class of proceedings (however described, and whether civil or criminal).

In this subsection, the reference to giving evidence is a reference to giving evidence in any manner, whether by furnishing information, making discovery, producing documents or otherwise.

(6) Nothing in sections 34, 35, 36 or 37 prejudices any power of a court, in any proceedings, to exclude evidence (whether by preventing questions being put or otherwise) at its discretion.

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Textual Amendments

F52 Words in s. 38 substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 116** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)

F53 S. 38(2A) inserted (27.9.1999 for specified purposes and otherwise 1.4.2003) by 1999 c. 23, ss. 58(5), 68(3)(4) (with Sch. 7 paras. 5(2), 8); S.I. 2003/707, **art. 2(a)**

Modifications etc. (not altering text)

C46 Ss. 34-38 applied (with modifications) (1.2.1997) by S.I. 1997/16, art. 2(1)(2), **Sch.**

C47 S. 38 applied in part (with modifications) (26.9.2006) by The Criminal Justice and Public Order Act 1994 (Application to the Armed Forces) Order 2006 (S.I. 2006/2326), **art. 3(1)**, Sch. 1

C48 S. 38(1) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with arts. 4, 5)

C49 S. 38(2) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C50 S. 38(2A) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C51 S. 38(3) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

C52 S. 38(5)(6) applied (with modifications) (31.10.2009) by Criminal Justice and Public Order Act 1994 (Application To The Armed Forces) Order 2009 (S.I. 2009/990), arts. 1(1), 2, **Sch. 1** (with art. 4)

39 Power to apply sections 34 to 38 to armed forces.

(1) The Secretary of State may by order direct that any provision of sections 34 to 38 of this Act shall apply, subject to such modifications as he may specify, to any proceedings to which this section applies.

[F54(2) This section applies to any proceedings before an officer or court in respect of a service offence (other than proceedings before a civilian court); and "service offence" and "civilian court" here have the same meanings as in the Armed Forces Act 2006.**]**

(3) An order under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F54 S. 39(2) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 130**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

C53 S. 39(2) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 33**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Juries

40 Disqualification for jury service of persons on bail in criminal proceedings.

F55 . . . . . .

Textual Amendments

F55 S. 40 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 33), ss. 332, 336, **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(2)(l)(iv)** (subject to art. 2(3)-(6))

41 Jury service: disabled persons.

After section 9A of the [M28]Juries Act 1974 there shall be inserted the following section—

"**9B Discharge of summonses to disabled persons only if incapable of acting effectively as a juror.**

(1) Where it appears to the appropriate officer, in the case of a person attending in pursuance of a summons under this Act, that on account of physical disability there is doubt as to his capacity to act effectively as a juror, the person may be brought before the judge.

(2) The judge shall determine whether or not the person should act as a juror; but he shall affirm the summons unless he is of the opinion that the person will not, on account of his disability, be capable of acting effectively as a juror, in which case he shall discharge the summons.

(3) In this section "the judge" means any judge of the High Court or any Circuit judge or Recorder.".

Marginal Citations

M28 1974 c. 23.

42 Jury service: excusal on religious grounds.

F56 . . . . . .

Textual Amendments

F56 S. 42 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 33), ss. 332, 336, **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(2)(l)(iv)** (subject to art. 2(3)-(6))

43 Separation of jury during consideration of verdict.

(1) For section 13 of the [M29]Juries Act 1974 (under which a jury may be allowed to separate at any time before they consider their verdict) there shall be substituted—

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"**13 Separation.**

If, on the trial of any person for an offence on indictment, the court thinks fit, it may at any time (whether before or after the jury have been directed to consider their verdict) permit the jury to separate.".

(2) The amendment made by subsection (1) above shall not have effect in relation to a trial where a direction to the jury to consider their verdict has been given before the commencement of this section.

Marginal Citations
M29 1974 c. 23.

Procedure, jurisdiction and powers of magistrates' courts

F57 44 . . . . . .

Textual Amendments
F57 S. 44 repealed (*retrospective* to 3.11.1994) by 1996 c. 25, ss. 44(2)(6), 80, **Sch. 5** Table (1), Note 2

45 Extension of procedures enabling magistrates' courts to deal with cases in which accused pleads guilty.

The amendments to the Magistrates' Courts Act 1980 specified in Schedule 5 (being amendments designed principally to extend the procedures applicable in magistrates' courts when the accused pleads guilty) shall have effect.

46 Criminal damage, etc. as summary offence: relevant sum.

(1) In subsection (1) of section 22 of the Magistrates' Courts Act 1980 (under which, where an offence of or related to criminal damage or, in certain circumstances, an offence of aggravated vehicle-taking, is charged and it appears clear to the magistrates' court that the value involved does not exceed the relevant sum, the court is to proceed as if the offence were triable only summarily) in the second paragraph (which states the relevant sum), for "£2,000" there shall be substituted " £5,000 ".

(2) Subsection (1) above does not apply to an offence charged in respect of an act done before this section comes into force.

47 Recovery of fines, etc. by deduction from income support.

(1) In section 89 of the Magistrates' Courts Act 1980 (which gives a magistrates' court power to make a transfer of fine order), after subsection (2) there shall be inserted the following subsection—

"(2A) The functions of the court to which subsection (2) above relates shall be deemed to include the court's power to apply to the Secretary of State under

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any regulations made by him under section 24(1)(a) of the [M30]Criminal Justice Act 1991 (power to deduct fines etc. from income support).".

(2) In section 90 of the Magistrates' Courts Act 1980 (which gives a magistrates' court power to transfer a fine to Scotland), after subsection (3) there shall be inserted the following subsection—

"(3A) The functions of the court which shall cease to be exercisable by virtue of subsection (3) above shall be deemed to include the court's power to apply to the Secretary of State under regulations made by him under section 24(1)(a) of the Criminal Justice Act 1991 (power to deduct fines from income support).".

(3) In section 24(3) of the Criminal Justice Act 1991 (which relates to the Secretary of State's power to authorise deduction of fines etc. from income support), after paragraph (b) there shall be inserted the following paragraph—

"(c) the reference in paragraph (a) to "the court" includes a reference to a court to which the function in that paragraph has been transferred by virtue of a transfer of fine order under section 89(1) or (3) or 90(1)(a) of the 1980 Act (power of magistrates' court to make transfer of fine order) or under section 403(1)(a) or (b) of the [M31]Criminal Procedure (Scotland) Act 1975 (analogous provision as respects Scotland) and a reference to a court to which that function has been remitted by virtue of section 196(2) of the said Act of 1975 (enforcement of fine imposed by High Court of Justiciary).".

[F58](4) . . . . . .

Extent Information

E2 S. 47(1) and (2) extend to England and Wales only; s. 47(3) which extends to England, Wales and Scotland; s. 47(4) extends to Scotland only see s. 172(7)(8)(13)

Textual Amendments

F58 S. 47(4) repealed (1.4.1996) by 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 16, **Sch. 5** (with savings in Sch. 3 para. 1)

Marginal Citations

M30 1991 c. 53.
M31 1975 c. 21.

Sentencing: guilty pleas

[F59]**48** . . . . . .

Textual Amendments

F59 S. 48 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I**, (with Sch. 11 paras. 1, 2)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Publication of reports in young offender cases

49 Restrictions on reports of proceedings in which children or young persons are concerned.

For section 49 of the the [M32]Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children or young persons are concerned) there shall be substituted—

"**49 Restrictions on reports of proceedings in which children or young persons are concerned.**

(1) The following prohibitions apply (subject to subsection (5) below) in relation to any proceedings to which this section applies, that is to say—

(a) no report shall be published which reveals the name, address or school of any child or young person concerned in the proceedings or includes any particulars likely to lead to the identification of any child or young person concerned in the proceedings; and

(b) no picture shall be published or included in a programme service as being or including a picture of any child or young person concerned in the proceedings.

(2) The proceedings to which this section applies are—

(a) proceedings in a youth court;

(b) proceedings on appeal from a youth court (including proceedings by way of case stated);

(c) proceedings under section 15 or 16 of the [M33]Children and Young Persons Act 1969 (proceedings for varying or revoking supervision orders); and

(d) proceedings on appeal from a magistrates' court arising out of proceedings under section 15 or 16 of that Act (including proceedings by way of case stated).

(3) The reports to which this section applies are reports in a newspaper and reports included in a programme service; and similarly as respects pictures.

(4) For the purposes of this section a child or young person is "concerned" in any proceedings whether as being the person against or in respect of whom the proceedings are taken or as being a witness in the proceedings.

(5) Subject to subsection (7) below, a court may, in relation to proceedings before it to which this section applies, by order dispense to any specified extent with the requirements of this section in relation to a child or young person who is concerned in the proceedings if it is satisfied—

(a) that it is appropriate to do so for the purpose of avoiding injustice to the child or young person; or

(b) that, as respects a child or young person to whom this paragraph applies who is unlawfully at large, it is necessary to dispense with those requirements for the purpose of apprehending him and bringing him before a court or returning him to the place in which he was in custody.

(6) Paragraph (b) of subsection (5) above applies to any child or young person who is charged with or has been convicted of—

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(a) a violent offence,
(b) a sexual offence, or
(c) an offence punishable in the case of a person aged 21 or over with imprisonment for fourteen years or more.

(7) The court shall not exercise its power under subsection (5)(b) above—
(a) except in pursuance of an application by or on behalf of the Director of Public Prosecutions; and
(b) unless notice of the application has been given by the Director of Public Prosecutions to any legal representative of the child or young person.

(8) The court's power under subsection (5) above may be exercised by a single justice.

(9) If a report or picture is published or included in a programme service in contravention of subsection (1) above, the following persons, that is to say—
(a) in the case of publication of a written report or a picture as part of a newspaper, any proprietor, editor or publisher of the newspaper;
(b) in the case of the inclusion of a report or picture in a programme service, any body corporate which provides the service and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) In any proceedings under section 15 or 16 of the [M34]Children and Young Persons Act 1969 (proceedings for varying or revoking supervision orders) before a magistrates' court other than a youth court or on appeal from such a court it shall be the duty of the magistrates' court or the appellate court to announce in the course of the proceedings that this section applies to the proceedings; and if the court fails to do so this section shall not apply to the proceedings.

(11) In this section—

"legal representative" means an authorised advocate or authorised litigator, as defined by section 119(1) of the [M35]Courts and Legal Services Act 1990;

"programme" and "programme service" have the same meaning as in the [M36]Broadcasting Act 1990;

"sexual offence" has the same meaning as in section 31(1) of the [M37]Criminal Justice Act 1991;

"specified" means specified in an order under this section;

"violent offence" has the same meaning as in section 31(1) of the Criminal Justice Act 1991;

and a person who, having been granted bail, is liable to arrest (whether with or without a warrant) shall be treated as unlawfully at large.".

Marginal Citations

M32 1933 c. 12.
M33 1969 c. 54.
M34 1969 c. 54.
M35 1990 c. 41.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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M36 1990 c. 42.
M37 1991 c. 53

Child testimony

F60 50 . . . . . .

Textual Amendments
F60 S. 50 repealed (24.7.2002) by 1999 c. 23, s. 67, **Sch. 6** (with Sch. 7 para. 5(2)); S.I. 2002/1739, **art. 2(g)(v)**

Intimidation, etc., of witnesses, jurors and others

51 Intimidation, etc., of witnesses, jurors and others.

[F61(1) A person commits an offence if—

(a) he does an act which intimidates, and is intended to intimidate, another person ("the victim"),

(b) he does the act knowing or believing that the victim is assisting in the investigation of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence, and

(c) he does it intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with.

(2) A person commits an offence if—

(a) he does an act which harms, and is intended to harm, another person or, intending to cause another person to fear harm, he threatens to do an act which would harm that other person,

(b) he does or threatens to do the act knowing or believing that the person harmed or threatened to be harmed ("the victim"), or some other person, has assisted in an investigation into an offence or has given evidence or particular evidence in proceedings for an offence, or has acted as a juror or concurred in a particular verdict in proceedings for an offence, and

(c) he does or threatens to do it because of that knowledge or belief.

(3) For the purposes of subsections (1) and (2) it is immaterial that the act is or would be done, or that the threat is made—

(a) otherwise than in the presence of the victim, or

(b) to a person other than the victim.**]**

(4) The harm that may be done or threatened may be financial as well as physical (whether to the person or a person's property) and similarly as respects an intimidatory act which consists of threats.

(5) The intention required by subsection (1)(c) and the motive required by subsection (2)(c) above need not be the only or the predominating intention or motive with which the act is done or, in the case of subsection (2), threatened.

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(6) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(7) If, in proceedings against a person for an offence under subsection (1) above, it is proved that he did an act falling within paragraph (a) with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the intention required by paragraph (c) of that subsection.

(8) If, in proceedings against a person for an offence under subsection (2) above, it is proved that **[**F62within the relevant period—

(a) he did an act which harmed, and was intended to harm, another person, or

(b) intending to cause another person fear of harm, he threatened to do an act which would harm that other person,

and that he did the act, or (as the case may be) threatened to do the act,**]** with the knowledge or belief required by paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act **[**F63or (as the case may be) threatened to do the act**]** with the motive required by paragraph (c) of that subsection.

(9) In this section—

"investigation into an offence" means such an investigation by the police or other person charged with the duty of investigating offences or charging offenders;

"offence" includes an alleged or suspected offence;

"potential", in relation to a juror, means a person who has been summoned for jury service at the court at which proceedings for the offence are pending; and

"the relevant period"—

(a) in relation to a witness or juror in any proceedings for an offence, means the period beginning with the institution of the proceedings and ending with the first anniversary of the conclusion of the trial or, if there is an appeal or **[**F64a reference under section 9 or 11 of the Criminal Appeal Act 1995**]**, of the conclusion of the appeal;

(b) in relation to a person who has, or is believed by the accused to have, assisted in an investigation into an offence, but was not also a witness in proceedings for an offence, means the period of one year beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation; and

(c) in relation to a person who both has, or is believed by the accused to have, assisted in the investigation into an offence and was a witness in proceedings for the offence, means the period beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation and ending with the anniversary mentioned in paragraph (a) above.

(10) For the purposes of the definition of the relevant period in subsection (9) above—

(a) proceedings for an offence are instituted at the earliest of the following times—

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(i) when a justice of the peace issues a summons or warrant under section 1 of the [M38]Magistrates' Courts Act 1980 in respect of the offence;

(ii) when a person is charged with the offence after being taken into custody without a warrant;

(iii) when a bill of indictment is preferred by virtue of section 2(2)(b) of the [M39]Administration of Justice (Miscellaneous Provisions) Act 1933;

(b) proceedings at a trial of an offence are concluded with the occurrence of any of the following, the discontinuance of the prosecution, the discharge of the jury without a finding **[**[F65]otherwise than in circumstances where the proceedings are continued without a jury**]** , the acquittal of the accused or the sentencing of or other dealing with the accused for the offence of which he was convicted; and

(c) proceedings on an appeal are concluded on the determination of the appeal or the abandonment of the appeal.

(11) This section is in addition to, and not in derogation of, any offence subsisting at common law.

Textual Amendments

F61 S. 51 (1)-(3) substituted (14.4.2000) by 1999 c. 23, s. 67, **Sch. 4**, paras. 21, 22 (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**

F62 S. 51(8)(a)(b) substituted (14.4.2000) for words by 1999 c. 23, s. 67, Sch. 4 paras. 21, **22(3)(a)** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**

F63 Words in s. 51(8)(b) inserted (14.4.2000) by 1999 c. 23, s. 67, Sch. 4 paras. 21, **22(3)(b)** (with Sch. 7 para. 5(2)); S.I. 2000/1034, **art. 2(b)**

F64 S. 51(9):Words in para. (a) of the definition "the relevant period" substituted (31.3.1997) by 1995 c. 35, s. 29(1), **Sch. 2 para. 19**; S.I. 1997/402, **art. 3** (with art. 4)

F65 Words in s. 51(10)(b) inserted (24.7.2006) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 Pt. 4 para. 64**; S.I. 2006/1835, **art. 2(h)** (subject to art. 3)

Marginal Citations

M38 1980 c. 43.

M39 1933 c. 36.

Criminal appeals

52 Circuit judges to act as judges of criminal division of Court of Appeal.

(1) Section 9 of the **[**[F66]Senior Courts Act 1981**]** (which provides for certain judges to act on request in courts other than that to which they were appointed) shall have effect with the amendments specified in subsections (2) to (5) below.

(2) In subsection (1)—

(a) after the words "Table may", there shall be inserted the words " , subject to the proviso at the end of that Table, ";

(b) in the Table, in column 2, in the entry specifying the court relating to entry 5 in column 1 (Circuit judges), after the words "High Court" there shall be inserted the words " and the Court of Appeal "; and

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(c) at the end of the Table there shall be inserted the following— " The entry in column 2 specifying the Court of Appeal in relation to a Circuit judge only authorises such a judge to act as a judge of a court in the criminal division of the Court of Appeal. ".

(3) In subsection (2)—

(a) in the definition of "the appropriate authority" after the words "High Court" there shall be inserted the words " or a Circuit judge "; and

(b) at the end, there shall be inserted the following— " but no request shall be made to a Circuit judge to act as a judge of a court in the criminal division of the Court of Appeal unless he is approved for the time being by the Lord Chancellor for the purpose of acting as a judge of that division. ".

(4) In subsection (5), for the words "subsection (6)" there shall be substituted the words " subsections (6) and (6A) ".

(5) After subsection (6) there shall be inserted the following subsection—

"(6A) A Circuit judge or Recorder shall not by virtue of subsection (5) exercise any of the powers conferred on a single judge by sections 31 and 44 of the [M40]Criminal Appeal Act 1968 (powers of single judge in connection with appeals to the Court of Appeal and appeals from the Court of Appeal to the House of Lords).".

(6) The further amendments specified in subsections (7) to (9) below (which supplement the foregoing amendments) shall have effect.

(7) In section 55 of the **[**[F66]Senior Courts Act 1981**]** (composition of criminal division of Court of Appeal)—

(a) in subsections (2) and (4), at the beginning, there shall be inserted the words " Subject to subsection (6), "; and

(b) after subsection (5), there shall be inserted the following subsection—

"(6) A court shall not be duly constituted if it includes more than one Circuit judge acting as a judge of the court under section 9.".

[F67](8) . . . . . .

(9) After the section 56A of the **[**[F66]Senior Courts Act 1981**]** inserted by subsection (8) above there shall be inserted the following section—

"**56B Allocation of cases in criminal division.**

(1) The appeals or classes of appeals suitable for allocation to a court of the criminal division of the Court of Appeal in which a Circuit judge is acting under section 9 shall be determined in accordance with directions given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor.

(2) In subsection (1) "appeal" includes the hearing of, or any application in proceedings incidental or preliminary to, an appeal.".

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Textual Amendments

F66 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

F67 S. 52(8) repealed (6.4.2011) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 10**; S.I. 2010/2921, art. 3(c)

Marginal Citations

M40 1968 c. 19.

53 Expenses in criminal appeals in Northern Ireland Court of Appeal.

(1) After section 28(2) of the [M41]Criminal Appeal (Northern Ireland) Act 1980 (certain expenses to be defrayed up to amount allowed by the Master (Taxing Office)) there shall be inserted the following subsections—

"(2A) Where a solicitor or counsel is dissatisfied with the amount of any expenses allowed by the Master (Taxing Office) under subsection (2)(a) above, he may apply to that Master to review his decision.

(2B) On a review under subsection (2A) the Master (Taxing Office) may confirm or vary the amount of expenses allowed by him.

(2C) An application under subsection (2A) shall be made, and a review under that subsection shall be conducted, in accordance with rules of court.

(2D) Where a solicitor or counsel is dissatisfied with the decision of the Master (Taxing Office) on a review under subsection (2A) above, he may appeal against that decision to the High Court and the Lord Chancellor may appear and be represented on any such appeal.

(2E) Where the Lord Chancellor is dissatisfied with the decision of the Master (Taxing Office) on a review under subsection (2A) above in relation to the expenses of a solicitor or counsel, he may appeal against that decision to the High Court and the solicitor or barrister may appear or be represented on any such appeal.

(2F) On any appeal under subsection (2D) or (2E) above the High Court may confirm or vary the amount of expenses allowed by the Master (Taxing Office) and the decision of the High Court shall be final.

(2G) The power of the Master (Taxing Office) or the High Court to vary the amount of expenses allowed under subsection (2)(a) above includes power to increase or reduce that amount to such extent as the Master or (as the case may be) the High Court thinks fit; and the reference in subsection (2) above to the amount allowed by the Master (Taxing Office) shall, in a case where that amount has been so varied, be construed as a reference to that amount as so varied.".

(2) Subsection (1) above does not have effect in relation to expenses allowed by the Master (Taxing Office) under section 28(2)(a) of the [M42]Criminal Appeal (Northern Ireland) Act 1980 before the date on which that subsection comes into force.

Marginal Citations

M41 1980 c. 47.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

M42 1980 c. 47.

PART IV

POLICE POWERS

Powers of police to take body samples

54 Powers of police to take intimate body samples.

(1) Section 62 of the [M43]Police and Criminal Evidence Act 1984 (regulation of taking of intimate samples) shall be amended as follows.

(2) After subsection (1) there shall be inserted the following subsection—

"(1A) An intimate sample may be taken from a person who is not in police detention but from whom, in the course of the investigation of an offence, two or more non-intimate samples suitable for the same means of analysis have been taken which have proved insufficient—

(a) if a police officer of at least the rank of superintendent authorises it to be taken; and

(b) if the appropriate consent is given.".

(3) In subsection (2)—

(a) after the word "authorisation" there shall be inserted the words " under subsection (1) or (1A) above "; and

(b) in paragraph (a), for the words "serious arrestable offence" there shall be substituted the words " recordable offence ".

(4) In subsection (3), after the words "subsection (1)" there shall be inserted the words " or (1A) ".

(5) [F68]. . . . . .

Textual Amendments

F68 S. 54(5) repealed (1.4.2003) by 2002 c. 30, ss. 107(2), 108(2), Sch. 8; S.I. 2003/808, **art. 2(K)(I)(i)**

Marginal Citations

M43 1984 c. 60.

55 Powers of police to take non-intimate body samples.

(1) Section 63 of the Police and Criminal Evidence Act 1984 (regulation of taking of non-intimate samples) shall be amended as follows.

(2) After subsection (3), there shall be inserted the following subsections—

"(3A) A non-intimate sample may be taken from a person (whether or not he falls within subsection (3)(a) above) without the appropriate consent if—

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(a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and

(b) either he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police or he has had a non-intimate sample taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

(3B) A non-intimate sample may be taken from a person without the appropriate consent if he has been convicted of a recordable offence.".

(3) In subsection (4), in paragraph (a), for the words "serious arrestable offence" there shall be substituted the words " recordable offence ".

(4) After subsection (8), there shall be inserted the following subsection—

"(8A) In a case where by virtue of subsection (3A) or (3B) a sample is taken from a person without the appropriate consent—

(a) he shall be told the reason before the sample is taken; and

(b) the reason shall be recorded as soon as practicable after the sample is taken.".

(5) In subsection (9), after the words "subsection (8)" there shall be inserted the words " or (8A) ".

F69(6) . . . . . .

Textual Amendments

F69 S. 55(6) repealed (19.3.1997) by 1997 c. 17, **ss. 1(1)**, 6(3)

56 Fingerprints and samples: supplementary provisions.

The following section shall be inserted after section 63 of the M44Police and Criminal Evidence Act 1984—

"**63A Fingerprints and samples: supplementary provisions.**

(1) Fingerprints or samples or the information derived from samples taken under any power conferred by this Part of this Act from a person who has been arrested on suspicion of being involved in a recordable offence may be checked against other fingerprints or samples or the information derived from other samples contained in records held by or on behalf of the police or held in connection with or as a result of an investigation of an offence.

(2) Where a sample of hair other than pubic hair is to be taken the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary for a sufficient sample.

(3) Where any power to take a sample is exercisable in relation to a person the sample may be taken in a prison or other institution to which the M45Prison Act 1952 applies.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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) Any constable may, within the allowed period, require a person who is neither in police detention nor held in custody by the police on the authority of a court to attend a police station in order to have a sample taken where—

(a) the person has been charged with a recordable offence or informed that he will be reported for such an offence and either he has not had a sample taken from him in the course of the investigation of the offence by the police or he has had a sample so taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient; or

(b) the person has been convicted of a recordable offence and either he has not had a sample taken from him since the conviction or he has had a sample taken from him (before or after his conviction) but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

(5) The period allowed for requiring a person to attend a police station for the purpose specified in subsection (4) above is—

(a) in the case of a person falling within paragraph (a), one month beginning with the date of the charge or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be;

(b) in the case of a person falling within paragraph (b), one month beginning with the date of the conviction or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be.

(6) A requirement under subsection (4) above—

(a) shall give the person at least 7 days within which he must so attend; and

(b) may direct him to attend at a specified time of day or between specified times of day.

(7) Any constable may arrest without a warrant a person who has failed to comply with a requirement under subsection (4) above.

(8) In this section "the appropriate officer" is—

(a) in the case of a person falling within subsection (4)(a), the officer investigating the offence with which that person has been charged or as to which he was informed that he would be reported;

(b) in the case of a person falling within subsection (4)(b), the officer in charge of the police station from which the investigation of the offence of which he was convicted was conducted.".

Marginal Citations

M44 1984 c. 60.

M45 1952 c. 52.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

57 Retention of samples in certain cases.

(1) Section 64 of the [M46]Police and Criminal Evidence Act 1984 (which prescribes the situations in which fingerprints and samples must be destroyed) shall be amended as follows.

(2) In subsections (1), (2) and (3), after the words "they must" there shall be inserted the words " , except as provided in subsection (3A) below, ".

[[F70](3) After subsection (3), there shall be inserted the following subsections—

"(3A) Samples which are required to be destroyed under subsection (1), (2) or (3) above need not be destroyed if they were taken for the purpose of the same investigation of an offence of which a person from whom one was taken has been convicted, but the information derived from the sample of any person entitled (apart from this subsection) to its destruction under subsection (1), (2) or (3) above shall not be used—

(a) in evidence against the person so entitled; or

(b) for the purposes of any investigation of an offence.**]**

(3B) Where samples are required to be destroyed under subsections (1), (2) or (3) above, and subsection (3A) above does not apply, information derived from the sample of any person entitled to its destruction under subsection (1), (2) or (3) above shall not be used—

(a) in evidence against the person so entitled; or

(b) for the purposes of any investigation of an offence.".

Textual Amendments

F70 S. 57(3) repealed (1.4.2003) by 2001 c. 16, ss. 137, 138(2), Sch. 7 Pt. 2(1); S.I. 2003/708, **art. 2(i)(m)**

Marginal Citations

M46 1984 c. 60.

58 Samples: intimate and non-intimate etc.

(1) Section 65 of the Police and Criminal Evidence Act 1984 (which contains definitions of intimate and non-intimate samples and other relevant definitions) shall be amended as follows.

(2) For the definition of "intimate sample" there shall be substituted—

""intimate sample" means—

(a) a sample of blood, semen or any other tissue fluid, urine or pubic hair;

(b) a dental impression;

(c) a swab taken from a person's body orifice other than the mouth;".

(3) For the definition of "non-intimate sample" there shall be substituted—

""non-intimate sample" means—

(a) a sample of hair other than pubic hair;

(b) a sample taken from a nail or from under a nail;

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(c) a swab taken from any part of a person's body including the mouth but not any other body orifice;

(d) saliva;

(e) a footprint or a similar impression of any part of a person's body other than a part of his hand;".

(4) After the definition of "non-intimate sample" there shall be inserted the following definitions—

""registered dentist" has the same meaning as in the [M47]Dentists Act 1984;

"speculative search", in relation to a person's fingerprints or samples, means such a check against other fingerprints or samples or against information derived from other samples as is referred to in section 63A(1) above;

"sufficient" and "insufficient", in relation to a sample, means sufficient or insufficient (in point of quantity or quality) for the purpose of enabling information to be produced by the means of analysis used or to be used in relation to the sample.".

Marginal Citations
M47 1984 c. 24.

59 Extension of powers to search persons' mouths.

(1) In section 65 of the [M48]Police and Criminal Evidence Act 1984 (definitions for purposes of Part V: treatment of persons by police), after the definition of "intimate sample" there shall be inserted the following definition—

""intimate search" means a search which consists of the physical examination of a person's body orifices other than the mouth;".

(2) In section 32 of that Act (powers of search upon arrest), in subsection (4), at the end, there shall be inserted " but they do authorise a search of a person's mouth ".

Marginal Citations
M48 1984 c. 60.

Powers of police to stop and search

60 Powers to stop and search in anticipation of [F71 , or after] violence.

F72[(1) If a police officer of or above the rank of inspector reasonably believes—

(a) that incidents involving serious violence may take place in any locality in his police area, and that it is expedient to give an authorisation under this section to prevent their occurrence,

[that—

F73(aa)

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(i) an incident involving serious violence has taken place in England and Wales in his police area;

(ii) a dangerous instrument or offensive weapon used in the incident is being carried in any locality in his police area by a person; and

(iii) it is expedient to give an authorisation under this section to find the instrument or weapon;**]** or

(b) that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason,

he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.**]**

(2) . . . . . .

(3) If it appears to **[**F74an officer of or above the rank of**]** superintendent that it is expedient to do so, having regard to offences which have, or are reasonably suspected to have, been committed in connection with any **[**F75activity**]** falling within the authorisation, he may direct that the authorisation shall continue in being for a further **[**F7624**]** hours.

[F77(3A) If an inspector gives an authorisation under subsection (1) he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.**]**

(4) This section confers on any constable in uniform power—

(a) to stop any pedestrian and search him or anything carried by him for offensive weapons or dangerous instruments;

(b) to stop any vehicle and search the vehicle, its driver and any passenger for offensive weapons or dangerous instruments.

F78(4A) . . . . . .

(5) A constable may, in the exercise of **[**F79the powers conferred by subsection (4) above**]**, stop any person or vehicle and make any search he thinks fit whether or not he has any grounds for suspecting that the person or vehicle is carrying weapons or articles of that kind.

(6) If in the course of a search under this section a constable discovers a dangerous instrument or an article which he has reasonable grounds for suspecting to be an offensive weapon, he may seize it.

(7) This section applies (with the necessary modifications) to ships, aircraft and hovercraft as it applies to vehicles.

F80(8) A person who fails

(a) to stop, or to stop a vehicle; F81. . .

F81(b) . . . . . .

when required to do so by a constable in the exercise of his powers under this section shall be liable on summary conviction to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale or both.

(9) **[**F82Subject to subsection (9ZA),**]** any authorisation under this section shall be in writing signed by the officer giving it and shall specify **[**F83the grounds on which it is given and**]** the locality in which and the period during which the powers conferred by this section are exercisable and a direction under subsection (3) above shall also

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be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.

[F84(9ZA) An authorisation under subsection (1)(aa) need not be given in writing where it is not practicable to do so but any oral authorisation must state the matters which would otherwise have to be specified under subsection (9) and must be recorded in writing as soon as it is practicable to do so.**]**

[F85(9A) The preceding provisions of this section, so far as they relate to an authorisation by a member of the British Transport Police Force (including one who for the time being has the same powers and privileges as a member of a police force for a police area), shall have effect as if the references to a locality in his police area were references to a place **[**F86in England and Wales **]** specified in section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003 **[**F87and as if the reference in subsection (1)(aa)(i) above to his police area were a reference to any place falling within section 31(1)(a) to (f) of the Act of 2003**].]**

(10) Where a vehicle is stopped by a constable under this section, the driver shall be entitled to obtain a written statement that the vehicle was stopped under the powers conferred by this section if he applies for such a statement not later than the end of the period of twelve months from the day on which the vehicle was stopped F88. . ..

[F89(10A) A person who is searched by a constable under this section shall be entitled to obtain a written statement that he was searched under the powers conferred by this section if he applies for such a statement not later than the end of the period of twelve months from the day on which he was searched.**]**

(11) In this section—

F90...

"dangerous instruments" means instruments which have a blade or are sharply pointed;

"offensive weapon" has the meaning given by section 1(9) of the M49Police and Criminal Evidence Act 1984 **[**F91or, in relation to Scotland, section 47(4) of the M50Criminal Law (Consolidation) (Scotland) Act 1995**][**F92; but in subsections (1)(aa), (4), (5) and (6) above and subsection (11A) below includes, in the case of an incident of the kind mentioned in subsection (1)(aa)(i) above, any article used in the incident to cause or threaten injury to any person or otherwise to intimidate**]**; and

F93. . . . . .

"vehicle" includes a caravan as defined in section 29(1) of the M51Caravan Sites and Control of Development Act 1960.

[F94(11A) For the purposes of this section, a person carries a dangerous instrument or an offensive weapon if he has it in his possession.**]**

(12) The powers conferred by this section are in addition to and not in derogation of, any power otherwise conferred.

Textual Amendments

F71 Words in s. 60 inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 87(6)**, 94(1); S.I. 2008/755, art. 18

F72 S. 60(1) substituted (1.3.1999) by 1997 c. 21, **s. 8(2)**; S.I. 1999/5, **art. 2**

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F73 S. 60(1)(aa) inserted (E.W) (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 87(1)**, 94(1); S.I. 2008/755, art. 18
F74 Words in s. 60(3) substituted (1.3.1999) by 1997 c. 21, **s. 8(4)(a)**; S.I. 1999/5, **art. 2**
F75 Word in s. 60(3) substituted (1.3.1999) by 1997 c. 21, **s. 8(4)(b)**; S.I. 1999/5, **art. 2**
F76 Word in s. 60(3) substituted (1.3.1999) by 1997 c. 21, **s. 8(4)(c)**; S.I. 1999/5, **art. 2**
F77 S. 60(3A) inserted (1.3.1999) by 1997 c. 21, **s. 8(5)**; S.I. 1999/5, **art. 2**
F78 S. 60(4A) repealed (14.12.2001) by 2001 c. 24, ss. 125, 127(2)(i), **Sch. 8 Pt. VI**
F79 Words in s. 60(5) substituted (1.3.1999) by 1998 c. 37, **s. 25(2)** (with Sch. 9); S.I. 1998/3263, **art. 4**
F80 S. 60(8)(a)(b) substituted (1.3.1999) for words in s. 60(8) by 1998 c. 37, **s. 25(3)**; S.I. 1998/3263, **art. 4**
F81 S. 60(8)(b) and word "or" immediately preceding repealed (14.12.2001) by 2001 c. 24, ss. 125, 127(2)(i), **Sch. 8 Pt. VI**
F82 Words in s. 60(9) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 87(2)**, 94(1); S.I. 2008/755, art. 18
F83 Words in s. 60(9) inserted (1.3.1999) by 1997 c. 21, **s. 8(6)**; S.I. 1999/5, **art. 2**
F84 S. 60(9ZA) inserted (E.W) (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 87(3)**, 94(1); S.I. 2008/755, art. 18
F85 S. 60(9A) substituted (1.7.2004) by The British Transport Police (Transitional and Consequential Provisions) Order 2004 (S.I. 2004/1573), **art. 12(3)(a)**
F86 Words in s. 60(9A) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 87(4)(a)**, 94(1); S.I. 2008/755, art. 18
F87 Words in s. 60(9A) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 87(4)(b)**, 94(1); S.I. 2008/755, art. 18
F88 Words in s. 60(10) repealed (1.3.1999) by 1997 c. 21, **s. 8(7)**; S.I. 1999/5, **art. 2**
F89 S. 60(10A) inserted (1.3.1999) by 1997 c. 21, **s. 8(8)**; S.I. 1999/5, **art. 2**
F90 S. 60: definition of "British Transport Police Force" ceases to have effect (1.7.2004) by virtue of Railways and Transport Safety Act 2003, (c. 20), ss. 73, 120, {Sch. 5 para. 4(1)(b)(2)(f)} (with s. 72); S.I. 2004/1572, **art. 3(ddd)(jjj)**
F91 Words in s. 60(11) inserted (1.3.1999) by 1997 c. 21, **s. 8(9)**; S.I. 1999/5, **art. 2**
F92 Words in s. 60(11) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 87(5)**, 94(1); S.I. 2008/755, art. 18
F93 S. 60(11): definition of "policed premises" repealed (1.7.2004) by The British Transport Police (Transitional and Consequential Provisions) Order 2004 (S.I. 2004/1573), **art. 12(3)(b)**
F94 S. 60(11A) inserted (1.3.1999) by 1997 c. 21, **s. 8(10)**; S.I. 1999/5, **art. 2**

Modifications etc. (not altering text)
C54 S. 60 extended (S.) (1.3.1999) by 1997 c. 21, **s. 8(11)**; S.I. 1999/5, **art. 2**
C55 Ss. 60, 60AA amended (1.7.2004) by Railways and Transport Safety Act 2003, (c. 20), ss. 73, 120, {Sch. 5 para. 4(1)(a)(2)(f)} (with s. 72); S.I. 2004/1572, **art. 3(ddd)(jjj)**

Marginal Citations
M49 1984 c. 60.
M50 1995 c. 39.
M51 1960 c. 62.

[F95 60AA Powers to require removal of disguises

(1) Where—

(a) an authorisation under section 60 is for the time being in force in relation to any locality for any period, or

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(b) an authorisation under subsection (3) that the powers conferred by subsection (2) shall be exercisable at any place in a locality is in force for any period,

those powers shall be exercisable at any place in that locality at any time in that period.

(2) This subsection confers power on any constable in uniform—

(a) to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity;

(b) to seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.

(3) If a police officer of or above the rank of inspector reasonably believes—

(a) that activities may take place in any locality in his police area that are likely (if they take place) to involve the commission of offences, and

(b) that it is expedient, in order to prevent or control the activities, to give an authorisation under this subsection,

he may give an authorisation that the powers conferred by this section shall be exercisable at any place within that locality for a specified period not exceeding twenty-four hours.

(4) If it appears to an officer of or above the rank of superintendent that it is expedient to do so, having regard to offences which—

(a) have been committed in connection with the activities in respect of which the authorisation was given, or

(b) are reasonably suspected to have been so committed,

he may direct that the authorisation shall continue in force for a further twenty-four hours.

(5) If an inspector gives an authorisation under subsection (3) , he must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.

(6) Any authorisation under this section—

(a) shall be in writing and signed by the officer giving it; and

(b) shall specify—

(i) the grounds on which it is given;

(ii) the locality in which the powers conferred by this section are exercisable;

(iii) the period during which those powers are exercisable;

and a direction under subsection (4) shall also be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.

(7) A person who fails to remove an item worn by him when required to do so by a constable in the exercise of his power under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale or both.

(8) The preceding provisions of this section, so far as they relate to an authorisation by a member of the British Transport Police Force (including one who for the time being has the same powers and privileges as a member of a police force for a police area), shall have effect as if references to a locality or to a locality in his police area were

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references to any locality in or in the vicinity of any policed premises, or to the whole or any part of any such premises.

(9) In this section **[**F96"British Transport Police Force"**]** and "policed premises" each has the same meaning as in section 60.

(10) The powers conferred by this section are in addition to, and not in derogation of, any power otherwise conferred.

(11) This section does not extend to Scotland.**]**

Textual Amendments

F95 S. 60AA inserted (14.12.2001) by 2001 c. 24, **ss. 94(1)**, 127(2)(d)

F96 S. 60AA: definition of "British Transport Police Force" ceases to have effect (1.7.2004) by virtue of Railways and Transport Safety Act 2003, (c. 20), ss. 73, 120, {Sch. 5 para. 4(1)(b)(2)(f)} (with s. 72); S.I. 2004/1572, **art. 3(ddd)(jjj)**

Modifications etc. (not altering text)

C56 Ss. 60, 60AA amended (1.7.2004) by Railways and Transport Safety Act 2003, (c. 20), ss. 73, 120, {Sch. 5 para. 4(1)(a)(2)(f)} (with s. 72); S.I. 2004/1572, **art. 3(ddd)(jjj)**

[F97**60A Retention and disposal of things seized under section 60.**

(1) Any things seized by a constable under section 60 **[**F98or 60AA**]** may be retained in accordance with regulations made by the Secretary of State under this section.

(2) The Secretary of State may make regulations regulating the retention and safe keeping, and the disposal and destruction in prescribed circumstances, of such things.

(3) Regulations under this section may make different provisions for different classes of things or for different circumstances.

(4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F97 S. 60A inserted (1.3.1999) by 1998 c. 37, **s. 26** (with Sch. 9); S.I. 1998/3263, **art. 4**

F98 Words in s. 60A(1) inserted (14.12.2001) by 2001 c. 24, **ss. 94(2)**, 127(2)(d)

[F99**60B Arrest without warrant for offences under section 60: Scotland.**

In Scotland, where a constable reasonably believes that a person has committed or is committing an offence under section 60(8) he may arrest that person without warrant.**]**

Textual Amendments

F99 S. 60B inserted (1.3.1999) by 1998 c. 37, **s. 27(2)** (with Sch. 9); S.I. 1998/3263, **art. 4**

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PART V

PUBLIC ORDER: COLLECTIVE TRESPASS OR NUISANCE ON LAND

Powers to remove trespassers on land

61 Power to remove trespassers on land.

(1) If the senior police officer present at the scene reasonably believes that two or more persons are trespassing on land and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and—

(a) that any of those persons has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his, or

(b) that those persons have between them six or more vehicles on the land,

he may direct those persons, or any of them, to leave the land and to remove any vehicles or other property they have with them on the land.

(2) Where the persons in question are reasonably believed by the senior police officer to be persons who were not originally trespassers but have become trespassers on the land, the officer must reasonably believe that the other conditions specified in subsection (1) are satisfied after those persons became trespassers before he can exercise the power conferred by that subsection.

(3) A direction under subsection (1) above, if not communicated to the persons referred to in subsection (1) by the police officer giving the direction, may be communicated to them by any constable at the scene.

(4) If a person knowing that a direction under subsection (1) above has been given which applies to him—

(a) fails to leave the land as soon as reasonably practicable, or

(b) having left again enters the land as a trespasser within the period of three months beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

[[F100](4A) Where, as respects Scotland, the reason why these persons have become trespassers is that they have ceased to be entitled to exercise access rights by virtue of—

(a) their having formed the common purpose mentioned in subsection (1) above; or

(b) one or more of the conditions specified in paragraphs (a) and (b) of that subsection having been satisfied,

the circumstances constituting that reason shall be treated, for the purposes of subsection (4) above, as having also occurred after these persons became trespassers.

(4B) In subsection (4A) above "access rights" has the meaning given by the Land Reform (Scotland) Act 2003 (asp 2).**]**

(5) **[**[F101]A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.**]**

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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 proceedings for an offence under this section it is a defence for the accused to show—

(a) that he was not trespassing on the land, or

(b) that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land as a trespasser.

(7) In its application in England and Wales to common land this section has effect as if in the preceding subsections of it—

(a) references to trespassing or trespassers were references to acts and persons doing acts which constitute either a trespass as against the occupier or an infringement of the commoners' rights; and

(b) references to "the occupier" included the commoners or any of them or, in the case of common land to which the public has access, the local authority as well as any commoner.

(8) Subsection (7) above does not—

(a) require action by more than one occupier; or

(b) constitute persons trespassers as against any commoner or the local authority if they are permitted to be there by the other occupier.

(9) In this section—

"common land" means common land as defined in section 22 of the [M52]Commons Registration Act 1965;

"commoner" means a person with rights of common as defined in section 22 of the [M53]Commons Registration Act 1965;

"land" does not include—

(a) buildings other than—

(i) agricultural buildings within the meaning of, in England and Wales, paragraphs 3 to 8 of Schedule 5 to the [M54]Local Government Finance Act 1988 or, in Scotland, section 7(2) of the [M55]Valuation and Rating (Scotland) Act 1956, or

(ii) scheduled monuments within the meaning of the [M56]Ancient Monuments and Archaeological Areas Act 1979;

(b) land forming part of—

(i) a highway unless **[**[F102]it is a footpath, bridleway or byway open to all traffic within the meaning of Part III of the Wildlife and Countryside Act 1981, is a restricted byway within the meaning of Part II of the Countryside and Rights of Way Act 2000**]**or is a cycle track under the [M57]Highways Act 1980 or the [M58]Cycle Tracks Act 1984; or

(ii) a road within the meaning of the [M59]Roads (Scotland) Act 1984 unless it falls within the definitions in section 151(2)(a)(ii) or (b) (footpaths and cycle tracks) of that Act or is a bridleway within the meaning of section 47 of the [M60]Countryside (Scotland) Act 1967;

"the local authority", in relation to common land, means any local authority which has powers in relation to the land under section 9 of the Commons Registration Act 1965;

"occupier" (and in subsection (8) "the other occupier") means—

(a) in England and Wales, the person entitled to possession of the land by virtue of an estate or interest held by him; and

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(b) in Scotland, the person lawfully entitled to natural possession of the land;

"property", in relation to damage to property on land, means—

(a) in England and Wales, property within the meaning of section 10(1) of the [M61]Criminal Damage Act 1971; and

(b) in Scotland, either—

(i) heritable property other than land; or

(ii) corporeal moveable property,

and "damage" includes the deposit of any substance capable of polluting the land;

"trespass" means, in the application of this section—

(a) in England and Wales, subject to the extensions effected by subsection (7) above, trespass as against the occupier of the land;

(b) in Scotland, entering, or as the case may be remaining on, land without lawful authority and without the occupier's consent; and

"trespassing" and "trespasser" shall be construed accordingly;

"vehicle" includes—

(a) any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle; and

(b) a caravan as defined in section 29(1) of the [M62]Caravan Sites and Control of Development Act 1960;

and a person may be regarded for the purposes of this section as having a purpose of residing in a place notwithstanding that he has a home elsewhere.

Textual Amendments

F100 S 61(4A)(4B) inserted (S.) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), ss. 99, 100(3)(4), **Sch. 2 para. 11** (with s. 100(2)); S.S.I. 2005/17, **art. 2(b)**

F101 S. 61(5) repealed (E.W.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174, 178, Sch. 7 para. 31(2), **Sch. 17**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

F102 Words in s. 61(9) substituted (2.5.2006 for E., 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103, **Sch. 5 Pt. 2 para. 17**; S.I. 2006/1172, **art. 2(g)(iv)**; S.I. 2006/1279, **art. 2(e)(g)**

Marginal Citations

M52 1965 c. 64.
M53 1965 c. 64.
M54 1988 c. 41.
M55 1956 c. 60.
M56 1979 c. 46.
M57 1980 c. 66.
M58 1984 c. 38.
M59 1984 c. 54.
M60 1967 c. 86.
M61 1971 c. 48.
M62 1960 c. 62.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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62 Supplementary powers of seizure.

(1) If a direction has been given under section 61 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse—

(a) failed to remove any vehicle on the land which appears to the constable to belong to him or to be in his possession or under his control; or

(b) entered the land as a trespasser with a vehicle within the period of three months beginning with the day on which the direction was given,

the constable may seize and remove that vehicle.

(2) In this section, "trespasser" and "vehicle" have the same meaning as in section 61.

[F103 62A Power to remove trespassers: alternative site available

(1) If the senior police officer present at a scene reasonably believes that the conditions in subsection (2) are satisfied in relation to a person and land, he may direct the person—

(a) to leave the land;

(b) to remove any vehicle and other property he has with him on the land.

(2) The conditions are—

(a) that the person and one or more others ("the trespassers") are trespassing on the land;

(b) that the trespassers have between them at least one vehicle on the land;

(c) that the trespassers are present on the land with the common purpose of residing there for any period;

(d) if it appears to the officer that the person has one or more caravans in his possession or under his control on the land, that there is a suitable pitch on a relevant caravan site for that caravan or each of those caravans;

(e) that the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.

(3) A direction under subsection (1) may be communicated to the person to whom it applies by any constable at the scene.

(4) Subsection (5) applies if—

(a) a police officer proposes to give a direction under subsection (1) in relation to a person and land, and

(b) it appears to him that the person has one or more caravans in his possession or under his control on the land.

(5) The officer must consult every local authority within whose area the land is situated as to whether there is a suitable pitch for the caravan or each of the caravans on a relevant caravan site which is situated in the local authority's area.

(6) In this section—

" caravan " and " caravan site " have the same meanings as in Part 1 of the Caravan Sites and Control of Development Act 1960;

" relevant caravan site " means a caravan site which is—

(a) situated in the area of a local authority within whose area the land is situated, and

(b) managed by a relevant site manager;

" relevant site manager " means—

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(a) a local authority within whose area the land is situated;

(aa) **[**F104a private registered provider of social housing;**]**

(b) a registered social landlord;

" registered social landlord " means a body registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996.

(7) The Secretary of State may by order amend the definition of "relevant site manager" in subsection (6) by adding a person or description of person.

(8) An order under subsection (7) must be made by statutory instrument and is subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F103 S. 62A inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 60**, 93; S.I. 2003/3300, **art. 3(b)**

F104 Words in s. 62A(6) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 80** (with art. 6, Sch. 3)

[F105**62B Failure to comply with direction under section 62A: offences**

(1) A person commits an offence if he knows that a direction under section 62A(1) has been given which applies to him and—

(a) he fails to leave the relevant land as soon as reasonably practicable,or

(b) he enters any land in the area of the relevant local authority as a trespasser before the end of the relevant period with the intention of residing there.

(2) The relevant period is the period of 3 months starting with the day on which the direction is given.

(3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.

(4) **F106**. . . . . .

(5) In proceedings for an offence under this section it is a defence for the accused to show—

(a) that he was not trespassing on the land in respect of which he is alleged to have committed the offence, or

(b) that he had a reasonable excuse—

(i) for failing to leave the relevant land as soon as reasonably practicable, or

(ii) for entering land in the area of the relevant local authority as a trespasser with the intention of residing there, or

(c) that, at the time the direction was given, he was under the age of 18 years and was residing with his parent or guardian.**]**

Textual Amendments

F105 S. 62B inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 61**, 93; S.I. 2003/3300, **art. 3(b)**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

F106 S. 62B(4) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174, 178, Sch. 7 para. 31(2), **Sch. 17**; S.I. 2005/3495, {2(1)(u)(xxxvi)} (subject to art. 2(2))

[F107 62C Failure to comply with direction under section 62A: seizure

(1) This section applies if a direction has been given under section 62A(1) and a constable reasonably suspects that a person to whom the direction applies has, without reasonable excuse—

(a) failed to remove any vehicle on the relevant land which appears to the constable to belong to him or to be in his possession or under his control; or

(b) entered any land in the area of the relevant local authority as a trespasser with a vehicle before the end of the relevant period with the intention of residing there.

(2) The relevant period is the period of 3 months starting with the day on which the direction is given.

(3) The constable may seize and remove the vehicle.**]**

Textual Amendments

F107 S. 62C inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 62(1)**, 93; S.I. 2003/3300, **art. 3(b)**

[F108 62D Common land: modifications

(1) In their application to common land sections 62A to 62C have effect with these modifications.

(2) References to trespassing and trespassers have effect as if they were references to acts, and persons doing acts, which constitute—

(a) a trespass as against the occupier, or

(b) an infringement of the commoners' rights.

(3) References to the occupier—

(a) in the case of land to which the public has access, include the local authority and any commoner;

(b) in any other case, include the commoners or any of them.

(4) Subsection (1) does not—

(a) require action by more than one occupier, or

(b) constitute persons trespassers as against any commoner or the local authority if they are permitted to be there by the other occupier.

(5) In this section "common land", "commoner" and "the local authority" have the meanings given by section 61.**]**

Textual Amendments

F108 S. 62D inserted (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 63**, 93; S.I. 2003/3300, **art. 3(b)**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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[F109 62E Sections 62A to 62D: interpretation

(1) Subsections (2) to (8) apply for the interpretation of sections 62A to 62D and this section.

(2) "Land" does not include buildings other than—

(a) agricultural buildings within the meaning of paragraphs 3 to 8 of Schedule 5 to the Local Government Finance Act 1988, or

(b) scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979.

(3) "Local authority" means—

(a) in Greater London, a London borough or the Common Council of the City of London;

(b) in England outside Greater London, a county council, a district council or the Council of the Isles of Scilly;

(c) in Wales, a county council or a county borough council.

(4) "Occupier", "trespass", "trespassing" and "trespasser" have the meanings given by section 61 in relation to England and Wales.

(5) "The relevant land" means the land in respect of which a direction under section 62A(1) is given.

(6) "The relevant local authority" means—

(a) if the relevant land is situated in the area of more than one local authority (but is not in the Isles of Scilly), the district council or county borough council within whose area the relevant land is situated;

(b) if the relevant land is situated in the Isles of Scilly, the Council of the Isles of Scilly;

(c) in any other case, the local authority within whose area the relevant land is situated.

(7) "Vehicle" has the meaning given by section 61.

(8) A person may be regarded as having a purpose of residing in a place even if he has a home elsewhere.**]**

Textual Amendments

F109 S. 62E inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 64**, 93; S.I. 2003/3300, **art. 3(b)**

Powers in relation to raves

63 Powers to remove persons attending or preparing for a rave. E+W

(1) This section applies to a gathering on land in the open air of **[**F110 20**]** or more persons (whether or not trespassers) at which amplified music is played during the night (with or without intermissions) and is such as, by reason of its loudness and duration and the time at which it is played, is likely to cause serious distress to the inhabitants of the locality; and for this purpose—

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(a) such a gathering continues during intermissions in the music and, where the gathering extends over several days, throughout the period during which amplified music is played at night (with or without intermissions); and

(b) "music" includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats.

[F111(1A) This section also applies to a gathering if—

(a) it is a gathering on land of 20 or more persons who are trespassing on the land; and

(b) it would be a gathering of a kind mentioned in subsection (1) above if it took place on land in the open air.**]**

(2) If, as respects any land F112. . . , a police officer of at least the rank of superintendent reasonably believes that—

(a) two or more persons are making preparations for the holding there of a gathering to which this section applies,

(b) ten or more persons are waiting for such a gathering to begin there, or

(c) ten or more persons are attending such a gathering which is in progress,

he may give a direction that those persons and any other persons who come to prepare or wait for or to attend the gathering are to leave the land and remove any vehicles or other property which they have with them on the land.

(3) A direction under subsection (2) above, if not communicated to the persons referred to in subsection (2) by the police officer giving the direction, may be communicated to them by any constable at the scene.

(4) Persons shall be treated as having had a direction under subsection (2) above communicated to them if reasonable steps have been taken to bring it to their attention.

(5) A direction under subsection (2) above does not apply to an exempt person.

(6) If a person knowing that a direction has been given which applies to him—

(a) fails to leave the land as soon as reasonably practicable, or

(b) having left again enters the land within the period of 7 days beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(7) In proceedings for an offence under **[**F113subsection (6) above**]** it is a defence for the accused to show that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land.

[F114(7A) A person commits an offence if—

(a) he knows that a direction under subsection (2) above has been given which applies to him, and

(b) he makes preparations for or attends a gathering to which this section applies within the period of 24 hours starting when the direction was given.

(7B) A person guilty of an offence under subsection (7A) above is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.**]**

F115(8) . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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(9) This section does not apply—

[[F116](a) in England and Wales, to a gathering in relation to a licensable activity within section 1(1)(c) of the Licensing Act 2003 (provision of certain forms of entertainment) carried on under and in accordance with an authorisation within the meaning of section 136 of that Act;**]**

(b) in Scotland, to a gathering in premises which, by virtue of section 41 of the [M63]Civic Government (Scotland) Act 1982, are licensed to be used as a place of public entertainment.

(10) In this section—

"entertainment licence" means a licence granted by a local authority under—

(a) Schedule 12 to the [M64]London Government Act 1963;

(b) section 3 of the [M65]Private Places of Entertainment (Licensing) Act 1967; or

(c) Schedule 1 to the [M66]Local Government (Miscellaneous Provisions) Act 1982;

"exempt person", in relation to land (or any gathering on land), means the occupier, any member of his family and any employee or agent of his and any person whose home is situated on the land;

"land in the open air" includes a place partly open to the air;

"local authority" means—

(a) in Greater London, a London borough council or the Common Council of the City of London;

(b) in England outside Greater London, a district council or the council of the Isles of Scilly;

(c) in Wales, a county council or county borough council; and

"occupier", "trespasser" and "vehicle" have the same meaning as in section 61.

(11) Until 1st April 1996, in this section "local authority" means, in Wales, a district council.

Extent Information

E3 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F110 Word in s. 63(1) substituted (E.W.) (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 58(2)**, 93; S.I. 2003/3300, **art. 2(e)(ii)**

F111 S. 63(1A) inserted (E.W.) (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 58(3)**, 93; S.I. 2003/3300, **art. 2(e)(ii)**

F112 Words in s. 63(2) repealed (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 58(4), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(e)(iii)(g)(ii)**

F113 Words in s. 63(7) substituted (E.W.) (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 58(5)**, 93; S.I. 2003/3300, **art. 2(e)(ii)**

F114 S. 63(7A)(7B) inserted (E.W.) (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 58(6)**, 93; S.I. 2003/3300, **art. 2(e)(ii)**

F115 S. 63(8) repealed (E.W.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174, 178, Sch. 7 para. 31(4), **Sch. 17**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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F116 S. 63(9)(a) substituted (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 201, **Sch. 6 para. 111** (with s. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**

Marginal Citations

M63 1982 c. 45.
M64 1963 c. 33.
M65 1967 c. 19.
M66 1982 c. 30.

63 Powers to remove persons attending or preparing for a rave. S

(1) This section applies to a gathering on land in the open air of 100 or more persons (whether or not trespassers) at which amplified music is played during the night (with or without intermissions) and is such as, by reason of its loudness and duration and the time at which it is played, is likely to cause serious distress to the inhabitants of the locality; and for this purpose—

(a) such a gathering continues during intermissions in the music and, where the gathering extends over several days, throughout the period during which amplified music is played at night (with or without intermissions); and

(b) "music" includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats.

(2) If, as respects any land [F112]. . . , a police officer of at least the rank of superintendent reasonably believes that—

(a) two or more persons are making preparations for the holding there of a gathering to which this section applies,

(b) ten or more persons are waiting for such a gathering to begin there, or

(c) ten or more persons are attending such a gathering which is in progress,

he may give a direction that those persons and any other persons who come to prepare or wait for or to attend the gathering are to leave the land and remove any vehicles or other property which they have with them on the land.

(3) A direction under subsection (2) above, if not communicated to the persons referred to in subsection (2) by the police officer giving the direction, may be communicated to them by any constable at the scene.

(4) Persons shall be treated as having had a direction under subsection (2) above communicated to them if reasonable steps have been taken to bring it to their attention.

(5) A direction under subsection (2) above does not apply to an exempt person.

(6) If a person knowing that a direction has been given which applies to him—

(a) fails to leave the land as soon as reasonably practicable, or

(b) having left again enters the land within the period of 7 days beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(7) In proceedings for an offence under this section it is a defence for the accused to show that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land.

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(8) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.

(9) This section does not apply—

[F116(a) in England and Wales, to a gathering in relation to a licensable activity within section 1(1)(c) of the Licensing Act 2003 (provision of certain forms of entertainment) carried on under and in accordance with an authorisation within the meaning of section 136 of that Act;**]**

(b) in Scotland, to a gathering in premises which, by virtue of section 41 of the M63Civic Government (Scotland) Act 1982, are licensed to be used as a place of public entertainment.

(10) In this section—

"entertainment licence" means a licence granted by a local authority under—

(a) Schedule 12 to the M64London Government Act 1963;

(b) section 3 of the M65Private Places of Entertainment (Licensing) Act 1967; or

(c) Schedule 1 to the M66Local Government (Miscellaneous Provisions) Act 1982;

"exempt person", in relation to land (or any gathering on land), means the occupier, any member of his family and any employee or agent of his and any person whose home is situated on the land;

"land in the open air" includes a place partly open to the air;

"local authority" means—

(a) in Greater London, a London borough council or the Common Council of the City of London;

(b) in England outside Greater London, a district council or the council of the Isles of Scilly;

(c) in Wales, a county council or county borough council; and

"occupier", "trespasser" and "vehicle" have the same meaning as in section 61.

(11) Until 1st April 1996, in this section "local authority" means, in Wales, a district council.

Extent Information

E30 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F112 Words in s. 63(2) repealed (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 58(4), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(e)(iii)(g)(ii)**

F116 S. 63(9)(a) substituted (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 201, **Sch. 6 para. 111** (with s. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**

Marginal Citations

M63 1982 c. 45.

M64 1963 c. 33.

M65 1967 c. 19.

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M66 1982 c. 30.

63 Powers to remove persons attending or preparing for a rave. S

(1) This section applies to a gathering on land in the open air of 100 or more persons (whether or not trespassers) at which amplified music is played during the night (with or without intermissions) and is such as, by reason of its loudness and duration and the time at which it is played, is likely to cause serious distress to the inhabitants of the locality; and for this purpose—

(a) such a gathering continues during intermissions in the music and, where the gathering extends over several days, throughout the period during which amplified music is played at night (with or without intermissions); and

(b) "music" includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats.

(2) If, as respects any land [F112]. . . , a police officer of at least the rank of superintendent reasonably believes that—

(a) two or more persons are making preparations for the holding there of a gathering to which this section applies,

(b) ten or more persons are waiting for such a gathering to begin there, or

(c) ten or more persons are attending such a gathering which is in progress,

he may give a direction that those persons and any other persons who come to prepare or wait for or to attend the gathering are to leave the land and remove any vehicles or other property which they have with them on the land.

(3) A direction under subsection (2) above, if not communicated to the persons referred to in subsection (2) by the police officer giving the direction, may be communicated to them by any constable at the scene.

(4) Persons shall be treated as having had a direction under subsection (2) above communicated to them if reasonable steps have been taken to bring it to their attention.

(5) A direction under subsection (2) above does not apply to an exempt person.

(6) If a person knowing that a direction has been given which applies to him—

(a) fails to leave the land as soon as reasonably practicable, or

(b) having left again enters the land within the period of 7 days beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(7) In proceedings for an offence under this section it is a defence for the accused to show that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land.

(8) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.

(9) This section does not apply—

[[F116](a) in England and Wales, to a gathering in relation to a licensable activity within section 1(1)(c) of the Licensing Act 2003 (provision of certain forms

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of entertainment) carried on under and in accordance with an authorisation within the meaning of section 136 of that Act;**]**

(b) in Scotland, to a gathering in premises which, by virtue of section 41 of the [M63]Civic Government (Scotland) Act 1982, are licensed to be used as a place of public entertainment.

(10) In this section—

"entertainment licence" means a licence granted by a local authority under—

(a) Schedule 12 to the [M64]London Government Act 1963;

(b) section 3 of the [M65]Private Places of Entertainment (Licensing) Act 1967; or

(c) Schedule 1 to the [M66]Local Government (Miscellaneous Provisions) Act 1982;

"exempt person", in relation to land (or any gathering on land), means the occupier, any member of his family and any employee or agent of his and any person whose home is situated on the land;

"land in the open air" includes a place partly open to the air;

"local authority" means—

(a) in Greater London, a London borough council or the Common Council of the City of London;

(b) in England outside Greater London, a district council or the council of the Isles of Scilly;

(c) in Wales, a county council or county borough council; and

"occupier", "trespasser" and "vehicle" have the same meaning as in section 61.

(11) Until 1st April 1996, in this section "local authority" means, in Wales, a district council.

Extent Information

E30 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F112 Words in s. 63(2) repealed (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 58(4), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(e)(iii)(g)(ii)**

F116 S. 63(9)(a) substituted (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 201, **Sch. 6 para. 111** (with s. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**

Marginal Citations

M63 1982 c. 45.
M64 1963 c. 33.
M65 1967 c. 19.
M66 1982 c. 30.

63 Powers to remove persons attending or preparing for a rave. S

(1) This section applies to a gathering on land in the open air of 100 or more persons (whether or not trespassers) at which amplified music is played during the night (with or without intermissions) and is such as, by reason of its loudness and duration and

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the time at which it is played, is likely to cause serious distress to the inhabitants of the locality; and for this purpose—

(a) such a gathering continues during intermissions in the music and, where the gathering extends over several days, throughout the period during which amplified music is played at night (with or without intermissions); and

(b) "music" includes sounds wholly or predominantly characterised by the emission of a succession of repetitive beats.

(2) If, as respects any land [F112]. . . , a police officer of at least the rank of superintendent reasonably believes that—

(a) two or more persons are making preparations for the holding there of a gathering to which this section applies,

(b) ten or more persons are waiting for such a gathering to begin there, or

(c) ten or more persons are attending such a gathering which is in progress,

he may give a direction that those persons and any other persons who come to prepare or wait for or to attend the gathering are to leave the land and remove any vehicles or other property which they have with them on the land.

(3) A direction under subsection (2) above, if not communicated to the persons referred to in subsection (2) by the police officer giving the direction, may be communicated to them by any constable at the scene.

(4) Persons shall be treated as having had a direction under subsection (2) above communicated to them if reasonable steps have been taken to bring it to their attention.

(5) A direction under subsection (2) above does not apply to an exempt person.

(6) If a person knowing that a direction has been given which applies to him—

(a) fails to leave the land as soon as reasonably practicable, or

(b) having left again enters the land within the period of 7 days beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(7) In proceedings for an offence under this section it is a defence for the accused to show that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land.

(8) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.

(9) This section does not apply—

[[F116](a) in England and Wales, to a gathering in relation to a licensable activity within section 1(1)(c) of the Licensing Act 2003 (provision of certain forms of entertainment) carried on under and in accordance with an authorisation within the meaning of section 136 of that Act;**]**

(b) in Scotland, to a gathering in premises which, by virtue of section 41 of the [M63]Civic Government (Scotland) Act 1982, are licensed to be used as a place of public entertainment.

(10) In this section—

"entertainment licence" means a licence granted by a local authority under—

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(a) Schedule 12 to the [M64]London Government Act 1963;
(b) section 3 of the [M65]Private Places of Entertainment (Licensing) Act 1967; or
(c) Schedule 1 to the [M66]Local Government (Miscellaneous Provisions) Act 1982;

"exempt person", in relation to land (or any gathering on land), means the occupier, any member of his family and any employee or agent of his and any person whose home is situated on the land;

"land in the open air" includes a place partly open to the air;

"local authority" means—

(a) in Greater London, a London borough council or the Common Council of the City of London;
(b) in England outside Greater London, a district council or the council of the Isles of Scilly;
(c) in Wales, a county council or county borough council; and

"occupier", "trespasser" and "vehicle" have the same meaning as in section 61.

(11) Until 1st April 1996, in this section "local authority" means, in Wales, a district council.

Extent Information

E30 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F112 Words in s. 63(2) repealed (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 58(4), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(e)(iii)(g)(ii)**

F116 S. 63(9)(a) substituted (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 201, **Sch. 6 para. 111** (with s. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**

Marginal Citations

M63 1982 c. 45.
M64 1963 c. 33.
M65 1967 c. 19.
M66 1982 c. 30.

64 Supplementary powers of entry and seizure.

(1) If a police officer of at least the rank of superintendent reasonably believes that circumstances exist in relation to any land which would justify the giving of a direction under section 63 in relation to a gathering to which that section applies he may authorise any constable to enter the land for any of the purposes specified in subsection (2) below.

(2) Those purposes are—
(a) to ascertain whether such circumstances exist; and
(b) to exercise any power conferred on a constable by section 63 or subsection (4) below.

(3) A constable who is so authorised to enter land for any purpose may enter the land without a warrant.

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(4) If a direction has been given under section 63 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse—

(a) failed to remove any vehicle or sound equipment on the land which appears to the constable to belong to him or to be in his possession or under his control; or

(b) entered the land as a trespasser with a vehicle or sound equipment within the period of 7 days beginning with the day on which the direction was given,

the constable may seize and remove that vehicle or sound equipment.

(5) Subsection (4) above does not authorise the seizure of any vehicle or sound equipment of an exempt person.

[F117(5A) Entering land in Scotland with sound equipment in the circumstances mentioned in subsection (4)(b) above is not an exercise of access rights within the meaning of the Land Reform (Scotland) Act 2003 (asp 2).**]**

(6) In this section—

"exempt person" has the same meaning as in section 63;

"sound equipment" means equipment designed or adapted for amplifying music and any equipment suitable for use in connection with such equipment, and "music" has the same meaning as in section 63; and

"vehicle" has the same meaning as in section 61.

Textual Amendments

F117 S. 64(5A) inserted (S.) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), ss. 99, 100(3)(4), **Sch. 2 para. 12** (with s. 100(2)); S.S.I. 2005/17, **art. 2(a)**

Commencement Information

I4 S. 64 partly in force at 3.2.1995; s. 64 not in force at Royal Assent see s. 172; s. 64(1)-(3) in force for specified purposes at 3.2.1995 by S.I. 1995/127, art. 2(1), **Sch. 1**; s. 64(4)-(6) in force at 10.4.1995 by S.I. 1995/721, art. 2, **Sch.**

65 Raves: power to stop persons from proceeding.

(1) If a constable in uniform reasonably believes that a person is on his way to a gathering to which section 63 applies in relation to which a direction under section 63(2) is in force, he may, subject to subsections (2) and (3) below—

(a) stop that person, and

(b) direct him not to proceed in the direction of the gathering.

(2) The power conferred by subsection (1) above may only be exercised at a place within 5 miles of the boundary of the site of the gathering.

(3) No direction may be given under subsection (1) above to an exempt person.

(4) If a person knowing that a direction under subsection (1) above has been given to him fails to comply with that direction, he commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) **[**F118A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.**]**

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(6) In this section, "exempt person" has the same meaning as in section 63.

Textual Amendments

F118 S. 65(5) repealed (E.W.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174, 178, Sch. 7 para. 31(5), **Sch. 17**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

66 Power of court to forfeit sound equipment.

(1) Where a person is convicted of an offence under section 63 in relation to a gathering to which that section applies and the court is satisfied that any sound equipment which has been seized from him under section 64(4), or which was in his possession or under his control at the relevant time, has been used at the gathering the court may make an order for forfeiture under this subsection in respect of that property.

(2) The court may make an order under subsection (1) above whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restrictions on forfeiture in any enactment.

(3) In considering whether to make an order under subsection (1) above in respect of any property a court shall have regard—

(a) to the value of the property; and

(b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).

(4) An order under subsection (1) above shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the police.

(5) Except in a case to which subsection (6) below applies, where any property has been forfeited under subsection (1) above, a magistrates' court may, on application by a claimant of the property, other than the offender from whom it was forfeited under subsection (1) above, make an order for delivery of the property to the applicant if it appears to the court that he is the owner of the property.

(6) In a case where forfeiture under subsection (1) above has been by order of a Scottish court, a claimant such as is mentioned in subsection (5) above may, in such manner as may be prescribed by act of adjournal, apply to that court for an order for the return of the property in question.

(7) No application shall be made under subsection (5), or by virtue of subsection (6), above by any claimant of the property after the expiration of 6 months from the date on which an order under subsection (1) above was made in respect of the property.

(8) No such application shall succeed unless the claimant satisfies the court either that he had not consented to the offender having possession of the property or that he did not know, and had no reason to suspect, that the property was likely to be used at a gathering to which section 63 applies.

(9) An order under subsection (5), or by virtue of subsection (6), above shall not affect the right of any person to take, within the period of 6 months from the date of an order under subsection (5), or as the case may be by virtue of subsection (6), above,

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proceedings for the recovery of the property from the person in possession of it in pursuance of the order, but on the expiration of that period the right shall cease.

(10) The Secretary of State may make regulations for the disposal of property, and for the application of the proceeds of sale of property, forfeited under subsection (1) above where no application by a claimant of the property under subsection (5), or by virtue of subsection (6), above has been made within the period specified in subsection (7) above or no such application has succeeded.

(11) The regulations may also provide for the investment of money and for the audit of accounts.

(12) The power to make regulations under subsection (10) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(13) In this section—

"relevant time", in relation to a person—

(a) convicted in England and Wales of an offence under section 63, means the time of his arrest for the offence or of the issue of a summons in respect of it;

(b) so convicted in Scotland, means the time of his arrest for, or of his being cited as an accused in respect of, the offence;

"sound equipment" has the same meaning as in section 64.

Commencement Information

I5 S. 66 wholly in force; s. 66 not in force at Royal Assent see s. 172; s. 66(6)(10)-(13) in force at 3.2.1995 by S.I. 1995/127, art. 2(1), **Sch. 1**; s. 66(1)-(5)(7)-(9) in force at 10.4.1995 by S.I. 1995/721, art. 2, **Sch.**

Retention and charges for seized property

67 Retention and charges for seized property.

(1) Any vehicles which have been seized and removed by a constable under section 62(1) **[**[F119], 62C(3)**]** or 64(4) may be retained in accordance with regulations made by the Secretary of State under subsection (3) below.

(2) Any sound equipment which has been seized and removed by a constable under section 64(4) may be retained until the conclusion of proceedings against the person from whom it was seized for an offence under section 63.

(3) The Secretary of State may make regulations—

(a) regulating the retention and safe keeping and the disposal and the destruction in prescribed circumstances of vehicles; and

(b) prescribing charges in respect of the removal, retention, disposal and destruction of vehicles.

(4) Any authority shall be entitled to recover from a person from whom a vehicle has been seized such charges as may be prescribed in respect of the removal, retention, disposal and destruction of the vehicle by the authority.

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(5) Regulations under subsection (3) above may make different provisions for different classes of vehicles or for different circumstances.

(6) Any charges under subsection (4) above shall be recoverable as a simple contract debt.

(7) Any authority having custody of vehicles under regulations under subsection (3) above shall be entitled to retain custody until any charges under subsection (4) are paid.

(8) The power to make regulations under subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9) In this section—

"conclusion of proceedings" against a person means—

(a) his being sentenced or otherwise dealt with for the offence or his acquittal;

(b) the discontinuance of the proceedings; or

(c) the decision not to prosecute him,

whichever is the earlier;

"sound equipment" has the same meaning as in section 64; and

"vehicle" has the same meaning as in section 61.

Textual Amendments

F119 Words in s. 67(1) inserted (E.W.) (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 62(2)**, 93; S.I. 2003/3300, **art. 3(b)**

Commencement Information

I6 S. 67 wholly in force at 10.4.1995; s. 67 not in force at Royal Assent see s. 172; s. 67(3)(4)(5)(8)(9) in force at 3.2.1995 by S.I. 1995/127, art. 2(1), **Sch. 1**; s. 67 (1)(2)(6)(7) in force at 10.4.1995 by S.I. 1995/721, art. 2, **Sch.**

Disruptive trespassers

68 Offence of aggravated trespass.

(1) A person commits the offence of aggravated trespass if he trespasses on land **[**F120in the open air**]** and, in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land **[**F121in the open air**]**, does there anything which is intended by him to have the effect—

(a) of intimidating those persons or any of them so as to deter them or any of them from engaging in that activity,

(b) of obstructing that activity, or

(c) of disrupting that activity.

[F122(1A) The reference in subsection (1) above to trespassing includes, in Scotland, the exercise of access rights (within the meaning of the Land Reform (Scotland) Act 2003 (asp 2)) up to the point when they cease to be exercisable by virtue of the commission of the offence under that subsection.**]**

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(2) Activity on any occasion on the part of a person or persons on land is "lawful" for the purposes of this section if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.

(3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

[F123(4) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.**]**

(5) In this section "land" does not include—

(a) the highways and roads excluded from the application of section 61 by paragraph (b) of the definition of "land" in subsection (9) of that section; or

(b) a road within the meaning of the M67Roads (Northern Ireland) Order 1993.

Textual Amendments

F120 Words in s. 68(1) repealed (E.W.S.) (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 59(2), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(e)(iii)(g)(ii)**

F121 Words in s. 68(1) repealed (E.W.S.) (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 59(2), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(e)(iii)(g)(ii)**

F122 S. 68(1A) inserted (S.) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), ss. 99, 100(3)(4), **Sch. 2 para. 13** (with s. 100(2)); S.S.I. 2005/17, **art. 2(a)**

F123 S. 68(4) repealed (E.W.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174, 178, Sch. 7 para. 31(6), **Sch. 17**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2); and repealed (N.I.) (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2)-(4), 15, 41, Sch. 1 para. 28(1), **Sch. 2**

Marginal Citations

M67 S.I. 1993/3160 (N.I. 15).

69 Powers to remove persons committing or participating in aggravated trespass.

(1) If the senior police officer present at the scene reasonably believes—

(a) that a person is committing, has committed or intends to commit the offence of aggravated trespass on land **[**F124in the open air**]**; or

(b) that two or more persons are trespassing on land **[**F125in the open air**]** and are present there with the common purpose of intimidating persons so as to deter them from engaging in a lawful activity or of obstructing or disrupting a lawful activity,

he may direct that person or (as the case may be) those persons (or any of them) to leave the land.

(2) A direction under subsection (1) above, if not communicated to the persons referred to in subsection (1) by the police officer giving the direction, may be communicated to them by any constable at the scene.

(3) If a person knowing that a direction under subsection (1) above has been given which applies to him—

(a) fails to leave the land as soon as practicable, or

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(b) having left again enters the land as a trespasser within the period of three months beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(4) In proceedings for an offence under subsection (3) it is a defence for the accused to show—

(a) that he was not trespassing on the land, or

(b) that he had a reasonable excuse for failing to leave the land as soon as practicable or, as the case may be, for again entering the land as a trespasser.

[[F126](5) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.**]**

(6) In this section "lawful activity" and "land" have the same meaning as in section 68.

Textual Amendments

F124 Words in s. 69(1) repealed (E.W.S.) (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 59(3), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(e)(iii)(g)(ii)**

F125 Words in s. 69(1) repealed (E.W.S.) (20.1.2004) by Anti-social Behaviour Act 2003 (c. 38), ss. 59(3), 92, 93, **Sch. 3**; S.I. 2003/3300, **art. 2(e)(iii)(g)(ii)**

F126 S. 69(5) repealed (E.W.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174, 178, Sch. 7 para. 31(7), **Sch. 17**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2); and repealed (N.I.) (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), art. 1(2)-(4), 15, 41, Sch. 1 para. 28(2), **Sch. 2**

Trespassory assemblies

70 Trespassory assemblies.

In Part II of the [M68]Public Order Act 1986 (processions and assemblies), after section 14, there shall be inserted the following sections—

"**14A Prohibiting trespassory assemblies.**

(1) If at any time the chief officer of police reasonably believes that an assembly is intended to be held in any district at a place on land to which the public has no right of access or only a limited right of access and that the assembly—

(a) is likely to be held without the permission of the occupier of the land or to conduct itself in such a way as to exceed the limits of any permission of his or the limits of the public's right of access, and

(b) may result—

(i) in serious disruption to the life of the community, or

(ii) where the land, or a building or monument on it, is of historical, architectural, archaeological or scientific importance, in significant damage to the land, building or monument,

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he may apply to the council of the district for an order prohibiting for a specified period the holding of all trespassory assemblies in the district or a part of it, as specified.

(2) On receiving such an application, a council may—

(a) in England and Wales, with the consent of the Secretary of State make an order either in the terms of the application or with such modifications as may be approved by the Secretary of State; or

(b) in Scotland, make an order in the terms of the application.

(3) Subsection (1) does not apply in the City of London or the metropolitan police district.

(4) If at any time the Commissioner of Police for the City of London or the Commissioner of Police of the Metropolis reasonably believes that an assembly is intended to be held at a place on land to which the public has no right of access or only a limited right of access in his police area and that the assembly—

(a) is likely to be held without the permission of the occupier of the land or to conduct itself in such a way as to exceed the limits of any permission of his or the limits of the public's right of access, and

(b) may result—

(i) in serious disruption to the life of the community, or

(ii) where the land, or a building or monument on it, is of historical, architectural, archaeological or scientific importance, in significant damage to the land, building or monument,

he may with the consent of the Secretary of State make an order prohibiting for a specified period the holding of all trespassory assemblies in the area or a part of it, as specified.

(5) An order prohibiting the holding of trespassory assemblies operates to prohibit any assembly which—

(a) is held on land to which the public has no right of access or only a limited right of access, and

(b) takes place in the prohibited circumstances, that is to say, without the permission of the occupier of the land or so as to exceed the limits of any permission of his or the limits of the public's right of access.

(6) No order under this section shall prohibit the holding of assemblies for a period exceeding 4 days or in an area exceeding an area represented by a circle with a radius of 5 miles from a specified centre.

(7) An order made under this section may be revoked or varied by a subsequent order made in the same way, that is, in accordance with subsection (1) and (2) or subsection (4), as the case may be.

(8) Any order under this section shall, if not made in writing, be recorded in writing as soon as practicable after being made.

(9) In this section and sections 14B and 14C—

"assembly" means an assembly of 20 or more persons;

"land" means land in the open air;

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

"limited", in relation to a right of access by the public to land, means that their use of it is restricted to use for a particular purpose (as in the case of a highway or road) or is subject to other restrictions;

"occupier" means—

(a) in England and Wales, the person entitled to possession of the land by virtue of an estate or interest held by him; or

(b) in Scotland, the person lawfully entitled to natural possession of the land,

and in subsections (1) and (4) includes the person reasonably believed by the authority applying for or making the order to be the occupier;

"public" includes a section of the public; and

"specified" means specified in an order under this section.

(10) In relation to Scotland, the references in subsection (1) above to a district and to the council of the district shall be construed—

(a) as respects applications before 1st April 1996, as references to the area of a regional or islands authority and to the authority in question; and

(b) as respects applications on and after that date, as references to a local government area and to the council for that area.

(11) In relation to Wales, the references in subsection (1) above to a district and to the council of the district shall be construed, as respects applications on and after 1st April 1996, as references to a county or county borough and to the council for that county or county borough.

14B Offences in connection with trespassory assemblies and arrest therefor.

(1) A person who organises an assembly the holding of which he knows is prohibited by an order under section 14A is guilty of an offence.

(2) A person who takes part in an assembly which he knows is prohibited by an order under section 14A is guilty of an offence.

(3) In England and Wales, a person who incites another to commit an offence under subsection (2) is guilty of an offence.

(4) A constable in uniform may arrest without a warrant anyone he reasonably suspects to be committing an offence under this section.

(5) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.

(6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) A person guilty of an offence under subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both, notwithstanding section 45(3) of the [M69]Magistrates' Courts Act 1980.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(8) Subsection (3) above is without prejudice to the application of any principle of Scots Law as respects art and part guilt to such incitement as is mentioned in that subsection.".

Marginal Citations
M68 1986 c. 64.
M69 1980 c. 43.

71 Trespassory assemblies: power to stop persons from proceeding.

After the section 14B inserted by section 70 in the [M70]Public Order Act 1986 there shall be inserted the following section—

"**14C Stopping persons from proceeding to trespassory assemblies.**

(1) If a constable in uniform reasonably believes that a person is on his way to an assembly within the area to which an order under section 14A applies which the constable reasonably believes is likely to be an assembly which is prohibited by that order, he may, subject to subsection (2) below—
(a) stop that person, and
(b) direct him not to proceed in the direction of the assembly.

(2) The power conferred by subsection (1) may only be exercised within the area to which the order applies.

(3) A person who fails to comply with a direction under subsection (1) which he knows has been given to him is guilty of an offence.

(4) A constable in uniform may arrest without a warrant anyone he reasonably suspects to be committing an offence under this section.

(5) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.".

Marginal Citations
M70 1986 c. 64.

Squatters

72 Violent entry to premises: special position of displaced residential occupiers and intending occupiers.

(1) Section 6 of the [M71]Criminal Law Act 1977 (which penalises violence by a person for securing entry into premises where a person on the premises is opposed and is known to be opposed to entry) shall be amended as follows.

(2) After subsection (1), there shall be inserted the following subsection—

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

"(1A) Subsection (1) above does not apply to a person who is a displaced residential occupier or a protected intending occupier of the premises in question or who is acting on behalf of such an occupier; and if the accused adduces sufficient evidence that he was, or was acting on behalf of, such an occupier he shall be presumed to be, or to be acting on behalf of, such an occupier unless the contrary is proved by the prosecution.".

(3) In subsection (2), at the beginning, there shall be inserted the words " Subject to subsection (1A) above, ".

(4) Subsection (3) (which is superseded by the provision made by subsection (2) above) shall be omitted.

(5) In subsection (7), at the end, there shall be inserted the words " and section 12A below contains provisions which apply for determining when any person is to be regarded for the purposes of this Part of this Act as a protected intending occupier of any premises or of any access to any premises. ".

Marginal Citations
M71 1977 c. 45.

73 Adverse occupation of residential premises.

For section 7 of the Criminal Law Act 1977 (trespassers failing to leave premises after being requested to do so by specified persons to be guilty of an offence) there shall be substituted the following section—

"**7 Adverse occupation of residential premises.**

(1) Subject to the following provisions of this section and to section 12A(9) below, any person who is on any premises as a trespasser after having entered as such is guilty of an offence if he fails to leave those premises on being required to do so by or on behalf of—
(a) a displaced residential occupier of the premises; or
(b) an individual who is a protected intending occupier of the premises.

(2) In any proceedings for an offence under this section it shall be a defence for the accused to prove that he believed that the person requiring him to leave the premises was not a displaced residential occupier or protected intending occupier of the premises or a person acting on behalf of a displaced residential occupier or protected intending occupier.

(3) In any proceedings for an offence under this section it shall be a defence for the accused to prove—
(a) that the premises in question are or form part of premises used mainly for non-residential purposes; and
(b) that he was not on any part of the premises used wholly or mainly for residential purposes.

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(4) Any reference in the preceding provisions of this section to any premises includes a reference to any access to them, whether or not any such access itself constitutes premises, within the meaning of this Part of this Act.

(5) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(6) A constable in uniform may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, guilty of an offence under this section.

(7) Section 12 below contains provisions which apply for determining when any person is to be regarded for the purposes of this Part of this Act as a displaced residential occupier of any premises or of any access to any premises and section 12A below contains provisions which apply for determining when any person is to be regarded for the purposes of this Part of this Act as a protected intending occupier of any premises or of any access to any premises.".

74 Protected intending occupiers: supplementary provisions.

After section 12 of the [M72]Criminal Law Act 1977 there shall be inserted the following section—

"**12A Protected intending occupiers: supplementary provisions.**

(1) For the purposes of this Part of this Act an individual is a protected intending occupier of any premises at any time if at that time he falls within subsection (2), (4) or (6) below.

(2) An individual is a protected intending occupier of any premises if—
- (a) he has in those premises a freehold interest or a leasehold interest with not less than two years still to run;
- (b) he requires the premises for his own occupation as a residence;
- (c) he is excluded from occupation of the premises by a person who entered them, or any access to them, as a trespasser; and
- (d) he or a person acting on his behalf holds a written statement—
  - (i) which specifies his interest in the premises;
  - (ii) which states that he requires the premises for occupation as a residence for himself; and
  - (iii) with respect to which the requirements in subsection (3) below are fulfilled.

(3) The requirements referred to in subsection (2)(d)(iii) above are—
- (a) that the statement is signed by the person whose interest is specified in it in the presence of a justice of the peace or commissioner for oaths; and
- (b) that the justice of the peace or commissioner for oaths has subscribed his name as a witness to the signature.

(4) An individual is also a protected intending occupier of any premises if—
- (a) he has a tenancy of those premises (other than a tenancy falling within subsection (2)(a) above or (6)(a) below) or a licence to occupy those

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premises granted by a person with a freehold interest or a leasehold interest with not less than two years still to run in the premises;

(b) he requires the premises for his own occupation as a residence;

(c) he is excluded from occupation of the premises by a person who entered them, or any access to them, as a trespasser; and

(d) he or a person acting on his behalf holds a written statement—

(i) which states that he has been granted a tenancy of those premises or a licence to occupy those premises;

(ii) which specifies the interest in the premises of the person who granted that tenancy or licence to occupy ("the landlord");

(iii) which states that he requires the premises for occupation as a residence for himself; and

(iv) with respect to which the requirements in subsection (5) below are fulfilled.

(5) The requirements referred to in subsection (4)(d)(iv) above are—

(a) that the statement is signed by the landlord and by the tenant or licensee in the presence of a justice of the peace or commissioner for oaths;

(b) that the justice of the peace or commissioner for oaths has subscribed his name as a witness to the signatures.

(6) An individual is also a protected intending occupier of any premises if—

(a) he has a tenancy of those premises (other than a tenancy falling within subsection (2)(a) or (4)(a) above) or a licence to occupy those premises granted by an authority to which this subsection applies;

(b) he requires the premises for his own occupation as a residence;

(c) he is excluded from occupation of the premises by a person who entered the premises, or any access to them, as a trespasser; and

(d) there has been issued to him by or on behalf of the authority referred to in paragraph (a) above a certificate stating that—

(i) he has been granted a tenancy of those premises or a licence to occupy those premises as a residence by the authority; and

(ii) the authority which granted that tenancy or licence to occupy is one to which this subsection applies, being of a description specified in the certificate.

(7) Subsection (6) above applies to the following authorities—

(a) any body mentioned in section 14 of the [M73]Rent Act 1977 (landlord's interest belonging to local authority etc.);

(b) the Housing Corporation;

(c) Housing for Wales; and

(d) a registered housing association within the meaning of the [M74]Housing Associations Act 1985.

(8) A person is guilty of an offence if he makes a statement for the purposes of subsection (2)(d) or (4)(d) above which he knows to be false in a material particular or if he recklessly makes such a statement which is false in a material particular.

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(9) In any proceedings for an offence under section 7 of this Act where the accused was requested to leave the premises by a person claiming to be or to act on behalf of a protected intending occupier of the premises—

(a) it shall be a defence for the accused to prove that, although asked to do so by the accused at the time the accused was requested to leave, that person failed at that time to produce to the accused such a statement as is referred to in subsection (2)(d) or (4)(d) above or such a certificate as is referred to in subsection (6)(d) above; and

(b) any document purporting to be a certificate under subsection (6)(d) above shall be received in evidence and, unless the contrary is proved, shall be deemed to have been issued by or on behalf of the authority stated in the certificate.

(10) A person guilty of an offence under subsection (8) above shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(11) A person who is a protected intending occupier of any premises shall be regarded for the purposes of this Part of this Act as a protected intending occupier also of any access to those premises.”.

Marginal Citations

M72 1977 c. 45.
M73 1977 c. 42.
M74 1985 c. 69.

75 Interim possession orders: false or misleading statements.

(1) A person commits an offence if, for the purpose of obtaining an interim possession order, he—

(a) makes a statement which he knows to be false or misleading in a material particular; or

(b) recklessly makes a statement which is false or misleading in a material particular.

(2) A person commits an offence if, for the purpose of resisting the making of an interim possession order, he—

(a) makes a statement which he knows to be false or misleading in a material particular; or

(b) recklessly makes a statement which is false or misleading in a material particular.

(3) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(4) In this section—

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"interim possession order" means an interim possession order (so entitled) made under rules of court for the bringing of summary proceedings for possession of premises which are occupied by trespassers;

"premises" has the same meaning as in Part II of the [M75]Criminal Law Act 1977 (offences relating to entering and remaining on property); and

"statement", in relation to an interim possession order, means any statement, in writing or oral and whether as to fact or belief, made in or for the purposes of the proceedings.

Marginal Citations

M75 1977 c. 45.

76 Interim possession orders: trespassing during currency of order.

(1) This section applies where an interim possession order has been made in respect of any premises and served in accordance with rules of court; and references to "the order" and "the premises" shall be construed accordingly.

(2) Subject to subsection (3), a person who is present on the premises as a trespasser at any time during the currency of the order commits an offence.

(3) No offence under subsection (2) is committed by a person if—

(a) he leaves the premises within 24 hours of the time of service of the order and does not return; or

(b) a copy of the order was not fixed to the premises in accordance with rules of court.

(4) A person who was in occupation of the premises at the time of service of the order but leaves them commits an offence if he re-enters the premises as a trespasser or attempts to do so after the expiry of the order but within the period of one year beginning with the day on which it was served.

(5) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(6) A person who is in occupation of the premises at the time of service of the order shall be treated for the purposes of this section as being present as a trespasser.

(7) **[**[F127]A constable in uniform may arrest without a warrant anyone who is, or whom he reasonably suspects to be, guilty of an offence under this section.**]**

(8) In this section—

"interim possession order" has the same meaning as in section 75 above and "rules of court" is to be construed accordingly; and

"premises" has the same meaning as in that section, that is to say, the same meaning as in PartII of the [M76]Criminal Law Act 1977 (offences relating to entering and remaining on property).

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Textual Amendments

F127 S. 76(7) repealed (E.W.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174, 178, Sch. 7 para. 31(8), **Sch. 17**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

Marginal Citations

M76 1977 c. 45.

Powers to remove unauthorised campers

77 Power of local authority to direct unauthorised campers to leave land.

(1) If it appears to a local authority that persons are for the time being residing in a vehicle or vehicles within that authority's area—

(a) on any land forming part of a highway;

(b) on any other unoccupied land; or

(c) on any occupied land without the consent of the occupier,

the authority may give a direction that those persons and any others with them are to leave the land and remove the vehicle or vehicles and any other property they have with them on the land.

(2) Notice of a direction under subsection (1) must be served on the persons to whom the direction applies, but it shall be sufficient for this purpose for the direction to specify the land and (except where the direction applies to only one person) to be addressed to all occupants of the vehicles on the land, without naming them.

(3) If a person knowing that a direction under subsection (1) above has been given which applies to him—

(a) fails, as soon as practicable, to leave the land or remove from the land any vehicle or other property which is the subject of the direction, or

(b) having removed any such vehicle or property again enters the land with a vehicle within the period of three months beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A direction under subsection (1) operates to require persons who re-enter the land within the said period with vehicles or other property to leave and remove the vehicles or other property as it operates in relation to the persons and vehicles or other property on the land when the direction was given.

(5) In proceedings for an offence under this section it is a defence for the accused to show that his failure to leave or to remove the vehicle or other property as soon as practicable or his re-entry with a vehicle was due to illness, mechanical breakdown or other immediate emergency.

(6) In this section—

"land" means land in the open air;

"local authority" means—

(a) in Greater London, a London borough or the Common Council of the City of London;

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(b) in England outside Greater London, a county council, a district council or the Council of the Isles of Scilly;

(c) in Wales, a county council or a county borough council;

"occupier"rson entitled to possession of the land by virtue of an estate or interest held by him;

"vehicle" includes—

(a) any vehicle, whether or not it is in a fit state for use on roads, and includes any body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle; and

(b) a caravan as defined in section 29(1) of the [M77]Caravan Sites and Control of Development Act 1960;

and a person may be regarded for the purposes of this section as residing on any land notwithstanding that he has a home elsewhere.

(7) Until 1st April 1996, in this section "local authority" means, in Wales, a county council or a district council.

Marginal Citations

M77 1960 c. 62.

78 Orders for removal of persons and their vehicles unlawfully on land.

(1) A magistrates' court may, on a complaint made by a local authority, if satisfied that persons and vehicles in which they are residing are present on land within that authority's area in contravention of a direction given under section 77, make an order requiring the removal of any vehicle or other property which is so present on the land and any person residing in it.

(2) An order under this section may authorise the local authority to take such steps as are reasonably necessary to ensure that the order is complied with and, in particular, may authorise the authority, by its officers and servants—

(a) to enter upon the land specified in the order; and

(b) to take, in relation to any vehicle or property to be removed in pursuance of the order, such steps for securing entry and rendering it suitable for removal as may be so specified.

(3) The local authority shall not enter upon any occupied land unless they have given to the owner and occupier at least 24 hours notice of their intention to do so, or unless after reasonable inquiries they are unable to ascertain their names and addresses.

(4) A person who wilfully obstructs any person in the exercise of any power conferred on him by an order under this section commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Where a complaint is made under this section, a summons issued by the court requiring the person or persons to whom it is directed to appear before the court to answer to the complaint may be directed—

(a) to the occupant of a particular vehicle on the land in question; or

(b) to all occupants of vehicles on the land in question, without naming him or them.

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(6) Section 55(2) of the [M78]Magistrates' Courts Act 1980 (warrant for arrest of defendant failing to appear) does not apply to proceedings on a complaint made under this section.

(7) Section 77(6) of this Act applies also for the interpretation of this section.

Marginal Citations
M78 1980 c. 43.

79 Provisions as to directions under s. 77 and orders under s. 78.

(1) The following provisions apply in relation to the service of notice of a direction under section 77 and of a summons under section 78, referred to in those provisions as a " relevant document ".

(2) Where it is impracticable to serve a relevant document on a person named in it, the document shall be treated as duly served on him if a copy of it is fixed in a prominent place to the vehicle concerned; and where a relevant document is directed to the unnamed occupants of vehicles, it shall be treated as duly served on those occupants if a copy of it is fixed in a prominent place to every vehicle on the land in question at the time when service is thus effected.

(3) A local authority shall take such steps as may be reasonably practicable to secure that a copy of any relevant document is displayed on the land in question (otherwise than by being fixed to a vehicle) in a manner designed to ensure that it is likely to be seen by any person camping on the land.

(4) Notice of any relevant document shall be given by the local authority to the owner of the land in question and to any occupier of that land unless, after reasonable inquiries, the authority is unable to ascertain the name and address of the owner or occupier; and the owner of any such land and any occupier of such land shall be entitled to appear and to be heard in the proceedings.

(5) Section 77(6) applies also for the interpretation of this section.

80 Repeal of certain provisions relating to gipsy sites.

(1) Part II of the [M79]Caravan Sites Act 1968 (duty of local authorities to provide sites for gipsies and control of unauthorised encampments) together with the definition in section 16 of that Act of "gipsies" is hereby repealed.

(2) In section 24 of the [M80]Caravan Sites and Control of Development Act 1960 (power to provide sites for caravans)—

(a) in subsection (2), after paragraph (b) there shall be inserted the following—

", or

(c) to provide, in or in connection with sites for the accommodation of gipsies, working space and facilities for the carrying on of such activities as are normally carried on by them,"; and

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(b) in subsection (8), at the end, there shall be inserted the words " and "gipsies" means persons of nomadic habit of life, whatever their race or origin, but does not include members of an organised group of travelling showmen, or persons engaged in travelling circuses, travelling together as such. ".

(3) The repeal by subsection (1) above of section 8 of the said Act of 1968 shall not affect the validity of directions given under subsection (3)(a) of that section; and in the case of directions under subsection (3)(c), the council may elect either to withdraw the application or request the Secretary of State to determine the application and if they so request the application shall be treated as referred to him under section 77 of the [M81]Town and Country Planning Act 1990.

(4) The repeal by subsection (1) above of the definition of "gipsies" in section 16 of the said Act of 1968 shall not affect the interpretation of that word [F128]..... in any document embodying the terms of any planning permission granted under the Town and Country Planning Act 1990 before the commencement of this section.

(5) Section 70 of the [M82]Local Government, Planning and Land Act 1980 (power to pay grant to local authorities in respect of capital expenditure in providing gipsy caravan sites) is hereby repealed so far as it extends to England and Wales except for the purposes of applications for grant received by the Secretary of State before the commencement of this section.

Textual Amendments

F128 Words in s. 80(4) repealed (30.4.2011 for E. for specified purposes) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), **Sch. 16**; S.I. 2011/1002, art. 2 (with arts. 3-7Sch.)

Modifications etc. (not altering text)

C57 S. 80: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

Marginal Citations

M79 1968 c. 52.
M80 1960 c. 62.
M81 1990 c. 8.
M82 1980 c. 65.

PART VI

PREVENTION OF TERRORISM

[F129]**81** .....

Textual Amendments

F129 Ss. 81, 83 repealed (19.2.2001) by 2000 c. 11, s. 125, **Sch. 16 Pt. I**, S.I. 2001/421, art. 2(a)

[F130]**82** .....

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F130 S. 82 repealed (19.2.2001) by 2000 c. 11, s. 125, **Sch. 16 Pt. I**; S.I. 2001/421, **art. 2(a)**

F131 83 . . . . . .

Textual Amendments

F131 S. 83 repealed (19.2.2001) by 2000 c. 11, s. 125, **Sch. 16 Pt. I**; S.I.2001/421, **art. 2(a)**

PART VII

OBSCENITY AND PORNOGRAPHY AND VIDEOS

Obscene publications and indecent photographs of children

84 Indecent pseudo-photographs of children.

(1) The M83Protection of Children Act 1978 shall be amended as provided in subsections (2) and (3) below.

(2) In section 1 (which penalises the taking and distribution of indecent photographs of children and related acts)—

(a) in paragraph (a) of subsection (1)—

(i) after the word "taken" there shall be inserted the words " or to make ", and the words following "child" shall be omitted;

(ii) after the word "photograph" there shall be inserted the words " or pseudo-photograph ";

(b) in paragraphs (b), (c) and (d) of subsection (1), after the word "photographs" there shall be inserted the words " or pseudo-photographs ";

(c) in subsection (2), after the word "photograph" there shall be inserted the words " or pseudo-photograph "; and

(d) in paragraphs (a) and (b) of subsection (4), after the word "photographs" there shall be inserted the words " or pseudo-photographs ".

(3) In section 7 (interpretation)—

(a) in subsection (3), at the end, there shall be inserted the words " and so as respects pseudo-photographs "; and

(b) for subsection (4) there shall be substituted the following subsection—

"(4) References to a photograph include—

(a) the negative as well as the positive version; and

(b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph.".

(c) after subsection (5) there shall be inserted the following subsections—

"(6) "Child", subject to subsection (8), means a person under the age of 16.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(7) "Pseudo-photograph" means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph.

(8) If the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated for all purposes of this Act as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.

(9) References to an indecent pseudo-photograph include—

(a) a copy of an indecent pseudo-photograph; and

(b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph.".

(4) Section 160 of the [M84]Criminal Justice Act 1988 (which penalises the possession of indecent photographs of children) shall be amended as follows—

(a) in subsection (1), after the word "photograph" there shall be inserted the words " or pseudo-photograph " and the words from "(meaning" to "16)" shall be omitted; and

(b) in paragraphs (a), (b) and (c) of subsection (2), after the word "photograph" there shall be inserted the words " or pseudo-photograph "; and

(c) in subsection (5), the reference to the coming into force of that section shall be construed, for the purposes of the amendments made by this subsection, as a reference to the coming into force of this subsection.

(5) The [M85]Civic Government (Scotland) Act 1982 shall be amended as provided in subsections (6) and (7) below.

(6) In section 52 (which, for Scotland, penalises the taking and distribution of indecent photographs of children and related acts)—

(a) in paragraph (a) of subsection (1)—

(i) after the word "taken" there shall be inserted the words " or makes "; and

(ii) for the words from "of a" to the end there shall be substituted the words " or pseudo-photograph of a child ";

(b) in paragraphs (b), (c) and (d) of subsection (1), after the word "photograph" there shall be inserted the words " or pseudo-photograph "; and

(c) in subsection (2), at the beginning there shall be inserted " In subsection (1) above "child" means, subject to subsection (2B) below, a person under the age of 16; and ";

(d) after subsection (2), there shall be added—

"(2A) In this section, "pseudo-photograph" means an image, whether produced by computer-graphics or otherwise howsoever, which appears to be a photograph.

(2B) If the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated for all purposes of this Act as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(2C) In this section, references to an indecent pseudo-photograph include—

(a) a copy of an indecent pseudo-photograph;

(b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph.”.

(e) in subsection (3)—

(i) in paragraph (a), for the words “3 months” there shall be substituted the words “ 6 months ”; and

(ii) in paragraph (b), for the words “two years” there shall be substituted the words “ 3 years ”;

(f) in subsection (4), and in paragraphs (a) and (b) of subsection (5), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”; and

(g) for subsection (8)(c) there shall be substituted—

“(c) references to a photograph include—

(i) the negative as well as the positive version; and

(ii) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph.”.

(7) In section 52A (which, for Scotland, penalises the possession of indecent photographs of children)—

(a) in subsection (1), for the words from “of a” to “16)” there shall be substituted the words “ or pseudo-photograph of a child ”;

(b) in subsection (2), in each of paragraphs (a) to (c), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”;

(c) in subsection (3)—

(i) after the word “to” there shall be inserted the words “ imprisonment for a period not exceeding 6 months or to ”; and

(ii) at the end there shall be added the words “or to both.”;

(d) in subsection (4), after the word “(2)” there shall be inserted the words “ to (2C) ”.

(8) The [M86]Protection of Children (Northern Ireland) Order 1978 shall be amended as provided in subsections (9) and (10) below.

(9) In Article 2 (interpretation)—

(a) in paragraph (2)—

(i) in the definition of “child”, after “child” there shall be inserted the words “ subject to paragraph (3)(c) ”;

(ii) for the definition of “photograph” there shall be substituted the following definitions—

““indecent pseudo-photograph” includes—

(a) a copy of an indecent pseudo-photograph; and

(b) data stored on a computer disc or by other electronic means which is capable of conversion into a pseudo-photograph;

“photograph” includes—

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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 negative as well as the positive version; and

(b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph;

"pseudo-photograph" means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph;";

(b) in paragraph (3)—

(i) in sub-paragraph (a), after the word "photograph" there shall be inserted the words "or pseudo-photograph";

(ii) in sub-paragraph (b), at the end, there shall be inserted the words "and so as respects pseudo-photographs; and";

(iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

"(c) if the impression conveyed by a pseudo-photograph is that the person shown is a child, the pseudo-photograph shall be treated as showing a child and so shall a pseudo-photograph where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.".

(10) In Article 3 (which, for Northern Ireland, penalises the taking and distribution of indecent photographs of children and related acts)—

(a) in sub-paragraph (a) of paragraph (1)—

(i) after the word "taken" there shall be inserted the words " or to make ";

(ii) after the word "photograph" there shall be inserted the words " or pseudo-photograph ";

(b) in sub-paragraphs (b), (c) and (d) of paragraph (1), after the word "photographs" there shall be inserted the words " or pseudo-photographs ";

(c) in sub-paragraphs (a) and (b) of paragraph (3), after the word "photographs" there shall be inserted the words " or pseudo-photographs ".

(11) Article 15 of the [M87]Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (which, for Northern Ireland, penalises the possession of indecent photographs of children) shall be amended as follows—

(a) in paragraph (1), after the word "photograph" there shall be inserted the words " or pseudo-photograph " and the words from "(meaning" to "16)" shall be omitted;

(b) in sub-paragraphs (a), (b) and (c) of paragraph (2), after the word "photograph" there shall be inserted the words " or pseudo-photograph "; and

(c) in paragraph (6), the reference to the coming into operation of that Article shall be construed, for the purposes of the amendments made by this subsection, as a reference to the coming into force of this subsection.

Extent Information

E4 S. 84(1) to (4) extends to England and Wales only; s. 84(5) to (7) extends to Scotland only; s. 84(8) to (11) extends to Northern Ireland only see s. 172(7)(13)(15).

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Marginal Citations

M83 1978 c. 37.
M84 1988 c. 33.
M85 1982 c. 45.
M86 S.I. 1978/1047 (N.I. 17).
M87 S.I. 1988/1847 (N.I. 17).

85 Arrestable offences to include certain offences relating to obscenity or indecency.

(1) F132 . . . . . .

(2) F132 . . . . . .

(3) F132 . . . . . .

(4) F133 . . . . . .

(5) F133 . . . . . .

(6) F133 . . . . . .

Extent Information

E5 S. 85(1) to (3) extends to England and Wales only; s. 85(4) to (6) extends to Northern Ireland only see s. 172(7)(15)

Textual Amendments

F132 S. 85(1)-(3) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

F133 S. 85(4)-(6) repealed (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 N.I. 2), arts. 1(2), 41, {Sch. 2}

86 Indecent photographs of children: sentence of imprisonment.

(1) In section 160(3) of the M88Criminal Justice Act 1988 (which makes a person convicted of certain offences relating to indecent photographs of children liable to a fine not exceeding level 5 on the standard scale) there shall be inserted after the word "to" the words " imprisonment for a term not exceeding six months or " and at the end the words " , or both ".

(2) In Article 15(3) of the M89Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (which makes a person convicted in Northern Ireland of certain offences relating to indecent photographs of children liable to a fine not exceeding level 5 on the standard scale) there shall be inserted after the word "to" the words " imprisonment for a term not exceeding 6 months or " and at the end the words " , or both ".

Extent Information

E6 S. 86(1) extends to England and Wales only; s. 86(2) extends to Northern Ireland only see s. 172(7)(15)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Marginal Citations
M88 1988 c. 33.
M89 S.I. 1988/1847 (N.I. 17).

87 Publishing, displaying, selling or distributing etc. obscene material in Scotland: sentence of imprisonment.

In section 51(3) of the [M90]Civic Government (Scotland) Act 1982 (which makes persons convicted in summary proceedings in Scotland of certain offences relating to obscene material liable, among other penalties, to imprisonment for a period not exceeding 3 months and persons convicted there on indictment of such offences liable, among other penalties, to imprisonment for a period not exceeding 2 years), for the words "3 months" there shall be substituted the words " 6 months " and for the words "two years" there shall be substituted the words " 3 years ".

Marginal Citations
M90 1982 c. 45.

Video recordings

88 Video recordings: increase in penalties.

(1) The following provisions of the [M91]Video Recordings Act 1984 (which create offences for which section 15(1) and (3) prescribe maximum fines of, in the case of sections 9 and 10, £20,000 and, in the case of other offences, level 5) shall be amended as follows.

(2) In section 9 (supplying videos of unclassified work), after subsection (2), there shall be inserted the following subsection—

"(3) A person guilty of an offence under this section shall be liable—
(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both,
(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £20,000 or both.".

(3) In section 10 (possessing videos of unclassified work for supply), after subsection (2), there shall be inserted the following subsection—

"(3) A person guilty of an offence under this section shall be liable—
(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both,
(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £20,000 or both.".

(4) In section 11 (supplying videos in breach of classification), after subsection (2), there shall be inserted the following subsection—

"(3) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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) In section 12 (supplying videos in places other than licensed sex shops), after subsection (4), there shall be inserted the following subsection—

"(4A) A person guilty of an offence under subsection (1) or (3) above shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.".

(6) In section 14 (supplying videos with false indication as to classification), after subsection (4), there shall be inserted the following subsection—

"(5) A person guilty of an offence under subsection (1) or (3) above shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.".

(7) The amendments made by this section shall not apply to offences committed before this section comes into force.

Marginal Citations
M91 1984 c. 39.

89 Video recordings: restriction of exemptions.

(1) Section 2 of the [M92]Video Recordings Act 1984 (exempted works) shall be amended as follows.

(2) In subsection (1), after the words "subsection (2)" there shall be inserted the words " or (3) ".

(3) In subsection (2)—

(a) after paragraph (c), there shall be inserted the following paragraph—

"(d) techniques likely to be useful in the commission of offences;"; and

(b) for the word "designed" (in both places) there shall be substituted the word " likely ".

(4) After subsection (2), there shall be inserted the following subsection—

"(3) A video work is not an exempted work for those purposes if, to any significant extent, it depicts criminal activity which is likely to any significant extent to stimulate or encourage the commission of offences.".

Commencement Information
I7 S. 89 wholly in force at 1.11.1995; s. 89 not in force at Royal Assent see s. 172; s. 89 in force at 1.11.1995 by 1995/1957, art. 5(1) (subject to savings in art. 5(2))

Marginal Citations
M92 1984 c. 39.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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90 Video recordings: suitability.

(1) After section 4 of the [M93]Video Recordings Act 1984 there shall be inserted the following sections—

"**4A Criteria for suitability to which special regard to be had.**

(1) The designated authority shall, in making any determination as to the suitability of a video work, have special regard (among the other relevant factors) to any harm that may be caused to potential viewers or, through their behaviour, to society by the manner in which the work deals with—

(a) criminal behaviour;

(b) illegal drugs;

(c) violent behaviour or incidents;

(d) horrific behaviour or incidents; or

(e) human sexual activity.

(2) For the purposes of this section—

"potential viewer" means any person (including a child or young person) who is likely to view the video work in question if a classification certificate or a classification certificate of a particular description were issued;

"suitability" means suitability for the issue of a classification certificate or suitability for the issue of a certificate of a particular description;

"violent behaviour" includes any act inflicting or likely to result in the infliction of injury;

and any behaviour or activity referred to in subsection (1)(a) to (e) above shall be taken to include behaviour or activity likely to stimulate or encourage it.

4B Review of determinations as to suitability.

(1) The Secretary of State may by order make provision enabling the designated authority to review any determination made by them, before the coming into force of section 4A of this Act, as to the suitability of a video work.

(2) The order may in particular provide—

(a) for the authority's power of review to be exercisable in relation to such determinations as the authority think fit;

(b) for the authority to determine, on any review, whether, if they were then determining the suitability of the video work to which the determination under review relates, they—

(i) would issue a classification certificate, or

(ii) would issue a different classification certificate;

(c) for the cancellation of a classification certificate, where they determine that they would not issue a classification certificate;

(d) for the cancellation of a classification certificate and issue of a new classification certificate, where they determine that they would issue a different classification certificate;

(e) for any such cancellation or issue not to take effect until the end of such period as may be determined in accordance with the order;

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(f) for such persons as may appear to the authority to fall within a specified category of person to be notified of any such cancellation or issue in such manner as may be specified;

(g) for treating a classification certificate, in relation to any act or omission occurring after its cancellation, as if it had not been issued;

(h) for specified provisions of this Act to apply to determinations made on a review subject to such modifications (if any) as may be specified;

(i) for specified regulations made under section 8 of this Act to apply to a video work in respect of which a new classification certificate has been issued subject to such modifications (if any) as may be specified.

(3) In subsection (2) above "specified" means specified by an order made under this section.

(4) The Secretary of State shall not make any order under this section unless he is satisfied that adequate arrangements will be made for an appeal against determinations made by the designated authority on a review.

(5) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section "suitability" has the same meaning as in section 4A of this Act.".

(2) In section 7(2) of the [M94]Video Recordings Act 1984 (contents of classification certificates), in paragraph (a), after the words "viewing by children", there shall be inserted the words " or young children ".

Marginal Citations
M93 1984 c. 39.
M94 1984 c. 39.

91 Enforcement by enforcing authorities outside their areas.

(1) The Video Recordings Act 1984 shall have effect with the following amendments.

(2) In section 16A (enforcement)—

(a) after subsection (1) there shall be inserted the following subsections—

"(1A) Subject to subsection (1B) below, the functions of a local weights and measures authority shall also include the investigation and prosecution outside their area of offences under this Act suspected to be linked to their area as well as the investigation outside their area of offences suspected to have been committed within it.

(1B) The functions available to an authority under subsection (1A) above shall not be exercisable in relation to any circumstances suspected to have arisen within the area of another local weights and measures authority without the consent of that authority.";

(b) in subsection (4), for the words "Subsection (1)" there shall be substituted the words " Subsections (1) and (1A) ";

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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(c) after subsection (4), there shall be inserted the following subsection—

"(4A) For the purposes of subsections (1A), (1B) and (2) above—

(a) offences in another area are "linked" to the area of a local weights and measures authority if—

(i) the supply or possession of video recordings in contravention of this Act within their area is likely to be or to have been the result of the supply or possession of those recordings in the other area; or

(ii) the supply or possession of video recordings in contravention of this Act in the other area is likely to be or to have been the result of the supply or possession of those recordings in their area; and

(b) "investigation" includes the exercise of the powers conferred by sections 27 and 28 of the [M95]Trade Descriptions Act 1968 as applied by subsection (2) above;

and sections 29 and 33 of that Act shall apply accordingly.".

(3) After section 16A there shall be inserted the following sections—

"**16B Extension of jurisdiction of magistrates' courts in linked cases.**

(1) A justice of the peace for an area to which section 1 of the [M96]Magistrates' Courts Act 1980 applies may issue a summons or warrant under and in accordance with that section as respects an offence under this Act committed or suspected of having been committed outside the area for which he acts if it appears to the justice that the offence is linked to the supply or possession of video recordings within the area for which he acts.

(2) Where a person charged with an offence under this Act appears or is brought before a magistrates' court in answer to a summons issued by virtue of subsection (1) above, or under a warrant issued under subsection (1) above, the court shall have jurisdiction to try the offence.

(3) For the purposes of this section an offence is "linked" to the supply or possession of video recordings within the area for which a justice acts if—

(a) the supply or possession of video recordings within his area is likely to be or to have been the result of the offence; or

(b) the offence is likely to be or to have been the result of the supply or possession of video recordings in his area.

16C Extension of jurisdiction of sheriff in linked cases.

(1) Subsection (4) of section 287 of the [M97]Criminal Procedure (Scotland) Act 1975 (jurisdiction of sheriff as respects offences committed in more than one district) shall apply in respect of linked offences, whether or not alleged to have been committed by one and the same person, as that subsection applies in respect of offences alleged to have been committed by one person in more than one sheriff court district which, if committed in one of those districts, could be tried under one complaint.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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) For the purposes of subsection (1) above, offences are linked if, being offences under this Act, they comprise the supply or possession of video recordings each within a different sheriff court district but such supply or possession within the one district is likely to be, or to have been, the result of such supply or possession within the other.

16D Extension of jurisdiction of magistrates' courts in Northern Ireland in linked cases.

(1) Paragraph (2) of Article 16 of the [M98]Magistrates' Courts (Northern Ireland) Order 1981 (jurisdiction of magistrates' court as respects offences committed in another division) shall apply in respect of linked offences as that paragraph applies in respect of summary offences committed in other county court divisions.

(2) For the purposes of subsection (1) above, an offence is a linked offence if the supply or possession of video recordings within one county court division is likely to be or to have been the result of the supply or possession of those recordings in another such division.".

Marginal Citations

M95 1968 c. 29.
M96 1980 c. 43.
M97 1975 c. 21.
M98 S.I. 1981/1675 (N.I. 26).

Obscene, offensive or annoying telephone calls

92 Obscene, offensive or annoying telephone calls: increase in penalty.

[[F134](1) In section 43(1) of the [M99]Telecommunications Act 1984 (which makes a person convicted of certain offences relating to improper use of public telecommunication systems liable to a fine not exceeding level 3 on the standard scale), for the words "a fine not exceeding level 3 on the standard scale" there shall be substituted the words " imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both ".

(2) Subsection (1) above does not apply to an offence committed before this section comes into force.**]**

Textual Amendments

F134 S. 92 repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 19(1)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

Marginal Citations

M99 1984 c. 12.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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 VIII

PRISON SERVICES AND THE PRISON SERVICE

CHAPTER I

ENGLAND AND WALES

Extent Information

E7 Ss. 93 to 101 extend to England and Wales only; ss. 93, 95 and 101(8) extend also to the British Islands so far as relating to the delivery of prisoners to or from premises situated in a part of the British Islands outside England and Wales see s. 172(7)(11)

Prisoner escorts

93 Arrangements for the provision of prisoner escorts.

(1) In subsection (1) of section 80 (arrangements for the provision of prisoner escorts) of the [M100]Criminal Justice Act 1991 ("the 1991 Act")—

(a) for paragraph (a) there shall be substituted the following paragraph—

"(a) the delivery of prisoners from one set of relevant premises to another;";

(b) in paragraph (b), for the words "such premises" there shall be substituted the words " the premises of any court "; and

(c) for paragraphs (c) and (d) there shall be substituted the following paragraph—

"(c) the custody of prisoners temporarily held in a prison in the course of delivery from one prison to another; and".

(2) After that subsection there shall be inserted the following subsection—

"(1A) In paragraph (a) of subsection (1) above "relevant premises" means a court, prison, police station or hospital; and either (but not both) of the sets of premises mentioned in that paragraph may be situated in a part of the British Islands outside England and Wales.".

(3) In subsection (3) of that section, for the words "a warrant of commitment" there shall be substituted the words " a warrant or a hospital order or remand " and for the words "that warrant" there shall be substituted the words " the warrant, order or remand ".

(4) After that subsection there shall be inserted the following subsection—

"(4) In this section—

"hospital" has the same meaning as in the [M101]Mental Health Act 1983;

"hospital order" means an order for a person's admission to hospital made under section 37, 38 or 44 of that Act, section 5 of the [M102]Criminal Procedure (Insanity) Act 1964 or section 6, 14 or 14A of the [M103]Criminal Appeal Act 1968;

"hospital remand" means a remand of a person to hospital under section 35 or 36 of the Mental Health Act 1983;

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

"warrant" means a warrant of commitment, a warrant of arrest or a warrant under section 46, 47, 48, 50 or 74 of that Act.".

(5) In subsection (1) of section 92 of that Act (interpretation of Part IV), for the definition of "prisoner" there shall be substituted the following definition—

""prisoner" means any person for the time being detained in legal custody as a result of a requirement imposed by a court or otherwise that he be so detained;".

(6) In subsection (3) of that section—

(a) for the words from "kept" to "accommodation)" there shall be substituted the words " remanded or committed to local authority accommodation under section 23 of the 1969 Act "; and

(b) for the words "section 80(1)(c) to (e)" there shall be substituted the words " section 80(1)(c) or (e) or (1A) ".

(7) After that subsection there shall be inserted the following subsection—

"(4) In sections 80, 82 and 83 above, "prison"—

(a) so far as relating to the delivery of prisoners to or from a prison situated in Scotland, includes a remand centre or young offenders institution within the meaning of section 19 of the [M104]Prisons (Scotland) Act 1989; and

(b) so far as relating to the delivery of prisoners to or from a prison situated in Northern Ireland, includes a remand centre or young offenders centre.".

Extent Information

E8 S. 93 extends to England and Wales and the British Islands see s. 172(7)(11)

Marginal Citations

M100 1991 c. 53.
M101 1983 c. 20.
M102 1964 c. 84.
M103 1968 c. 19.
M104 1989 c. 45.

94 Powers and duties of prisoner custody officers acting in pursuance of such arrangements.

(1) For subsection (4) of section 82 of the 1991 Act (powers and duties of prisoner custody officers acting in pursuance of such arrangements) there shall be substituted the following subsection—

"(4) Where a prisoner custody officer acting in pursuance of prisoner escort arrangements is on any premises in which the Crown Court or a magistrates' court is sitting, it shall be his duty to give effect to any order of that court made—

(a) in the case of the Crown Court, under section 34A of the 1973 Act (power of Court to order search of persons before it); or

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(b) in the case of a magistrates' court, under section 80 of the 1980 Act (application of money found on defaulter).".

(2) After subsection (2) of section 6 of the [M105]Imprisonment (Temporary Provisions) Act 1980 (detention in the custody of a police constable) there shall be inserted the following subsection—

"(3) Any reference in this section to a constable includes a reference to a prisoner custody officer (within the meaning of Part IV of the [M106]Criminal Justice Act 1991) acting in pursuance of prisoner escort arrangements (within the meaning of that Part).".

Marginal Citations
M105 1980 c. 57.
M106 1991 c. 53.

95 Breaches of discipline by prisoners under escort.

For section 83 of the 1991 Act there shall be substituted the following section—

"**83 Breaches of discipline by prisoners under escort.**

(1) This section applies where a prisoner for whose delivery or custody a prisoner custody officer has been responsible in pursuance of prisoner escort arrangements is delivered to a prison.

(2) For the purposes of such prison rules as relate to disciplinary offences, the prisoner shall be deemed to have been—
(a) in the custody of the governor of the prison; or
(b) in the case of a contracted out prison, in the custody of its director,
at all times during the period for which the prisoner custody officer was so responsible.

(3) In the case of any breach by the prisoner at any time during that period of such prison rules as so relate, a disciplinary charge may be laid against him by the prisoner custody officer.

(4) Nothing in this section shall enable a prisoner to be punished under prison rules for any act or omission of his for which he has already been punished by a court.

(5) In this section "prison rules", in relation to a prison situated in a part of the British Islands outside England and Wales, means rules made under any provision of the law of that part which corresponds to section 47 of the 1952 Act.".

Extent Information
E9 S. 95 extends to England and Wales and the British Islands see s. 172(7)(11)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Contracted out prisons etc.

96 Contracted out parts of prisons, etc.

For section 84 of the 1991 Act there shall be substituted the following section—

"**84 Contracting out prisons etc.**

(1) The Secretary of State may enter into a contract with another person for the provision or running (or the provision and running) by him, or (if the contract so provides) for the running by sub-contractors of his, of any prison or part of a prison.

(2) While a contract under this section for the running of a prison or part of a prison is in force—

(a) the prison or part shall be run subject to and in accordance with sections 85 and 86 below, the 1952 Act (as modified by section 87 below) and prison rules; and

(b) in the case of a part, that part and the remaining part shall each be treated for the purposes of sections 85 to 88A below as if they were separate prisons.

(3) Where the Secretary of State grants a lease or tenancy of land for the purposes of any contract under this section, none of the following enactments shall apply to it, namely—

(a) Part II of the [M107]Landlord and Tenant Act 1954 (security of tenure);

(b) section 146 of the [M108]Law of Property Act 1925 (restrictions on and relief against forfeiture);

(c) section 19(1), (2) and (3) of the [M109]Landlord and Tenant Act 1927 and the [M110]Landlord and Tenant Act 1988 (covenants not to assign etc.); and

(d) the [M111]Agricultural Holdings Act 1986.

In this subsection "lease or tenancy" includes an underlease or sub-tenancy.

(4) In this Part—

"contracted out prison" means a prison or part of a prison for the running of which a contract under this section is for the time being in force;

"the contractor", in relation to a contracted out prison, means the person who has contracted with the Secretary of State for the running of it; and

"sub-contractor", in relation to a contracted out prison, means a person who has contracted with the contractor for the running of it or any part of it.".

Marginal Citations

M107 1954 c. 56.
M108 1925 c. 20.
M109 1927 c. 36
M110 1988 c. 26.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

M111 1986 c. 5.

97 Temporary attachment of prison officers.

(1) At the end of subsection (1) of section 85 of the 1991 Act (officers of contracted out prisons) there shall be inserted the words " or a prison officer who is temporarily attached to the prison ".

(2) At the end of paragraph (b) of subsection (4) of that section there shall be inserted the words " or prison officers who are temporarily attached to the prison ".

(3) F135 . . . . . .

(4) After subsection (4) of that section there shall be inserted the following subsection—

"(4A) Section 11 (ejectment of prison officers and their families refusing to quit) shall not apply.".

(5) At the end of subsections (6) and (7) of that section there shall be inserted the words " or a prison officer who is temporarily attached to the prison ".

Textual Amendments

F135 S. 97(3) repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 5 Pt. 2**; S.I. 2007/3001, **art. 2(1)(t)(iv)**

98 Prisoners temporarily out of prison.

After subsection (1) of section 92 of the 1991 Act (interpretation of Part IV) there shall be inserted the following subsection—

"(1A) Any reference in this Part to custodial duties at a contracted out prison includes a reference to custodial duties in relation to a prisoner who is outside such a prison for temporary purposes.".

Miscellaneous

99 Contracted out functions at directly managed prisons.

After section 88 of the 1991 Act there shall be inserted the following section—

"Contracted out functions

88A Contracted out functions at directly managed prisons.

(1) The Secretary of State may enter into a contract with another person for any functions at a directly managed prison to be performed by prisoner custody officers who are provided by that person and are authorised to perform custodial duties.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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 86 above shall apply in relation to a prisoner custody officer performing contracted out functions at a directly managed prison as it applies in relation to such an officer performing custodial duties at a contracted out prison.

(3) In relation to a directly managed prison—

(a) the reference in section 13(2) of the 1952 Act (legal custody of prisoners) to an officer of the prison; and

(b) the reference in section 14(2) of that Act (cells) to a prison officer,

shall each be construed as including a reference to a prisoner custody officer performing custodial duties at the prison in pursuance of a contract under this section.

(4) Any reference in subsections (1) to (3) above to the performance of functions or custodial duties at a directly managed prison includes a reference to the performance of functions or such duties for the purposes of, or for purposes connected with, such a prison.

(5) In this Part—

"contracted out functions" means any functions which, by virtue of a contract under this section, fall to be performed by prisoner custody officers;

"directly managed prison" means a prison which is not a contracted out prison." .

100 Provision of prisons by contractors.

(1) For subsection (2) of section 33 of the [M112]Prison Act 1952 (power to declare buildings etc. to be prisons) there shall be substituted the following subsection—

"(2) The Secretary of State may provide new prisons by declaring to be a prison—

(a) any building or part of a building built for the purpose or vested in him or under his control; or

(b) any floating structure or part of such a structure constructed for the purpose or vested in him or under his control.".

(2) Subsections (3) and (4) below apply where the Secretary of State enters into a contract with another person ("the contractor") for the provision by him of a prison.

(3) Section 33(2) of the [M113]Prison Act 1952 shall have effect as if it also included references to—

(a) any building or part of a building built by the contractor for the purpose or vested in him or under his control; and

(b) any floating structure or part of such a structure constructed by the contractor for the purpose or vested in him or under his control.

(4) Nothing in section 35(1) of that Act (prison property to be vested in the Secretary of State **[**[F136]for Justice**]**) shall require the prison or any real or personal property belonging to the prison to be vested in the Secretary of State **[**[F136]for Justice**]** .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F136 Words in s. 100(4) inserted (22.8.2007) by The Secretary of State for Justice Order 2007 (S.I. 2007/2128), arts. 1(2), 8, **Sch. para. 6**

Marginal Citations

M112 1952 c. 52.
M113 1952 c. 52.

Supplemental

101 Minor and consequential amendments.

(1) In subsection (5) of section 85 of the 1991 Act (officers of contracted out prisons), for the words "The contractor shall" there shall be substituted the words " The contractor and any sub-contractor of his shall each ".

(2) In subsection (3)(b) of section 88 of that Act (intervention by the Secretary of State), for the words "the contractor shall" there shall be substituted the words " the contractor and any sub-contractor of his shall each ".

(3) In subsection (5) of that section, after the words "the contractor," there shall be inserted the words " any sub-contractor of his, ".

(4) In subsection (3) of section 89 of that Act (certification of prisoner custody officers), for the words "contracted out prison" there shall be substituted the words " contracted out or directly managed prison ".

(5) In subsections (1) and (3) of section 90 of that Act (protection of prisoner custody officers), for the words from "acting" to "prison" there shall be substituted the words—

"(a) acting in pursuance of prisoner escort arrangements;

(b) performing custodial duties at a contracted out prison; or

(c) performing contracted out functions at a directly managed prison,".

(6) In subsection (1) of section 91 of that Act (wrongful disclosure of information), for the words from "is or has been" to "prison" there shall be substituted the words—

"(a) is or has been employed (whether as a prisoner custody officer or otherwise) in pursuance of prisoner escort arrangements, or at a contracted out prison; or

(b) is or has been employed to perform contracted out functions at a directly managed prison,".

(7) In subsection (1) of section 92 of that Act (interpretation of Part IV)—

(a) after the words "In this Part" there shall be inserted the words " unless the context otherwise requires ";

(b) in the definitions of "contracted out prison" and "contractor", for the words "section 84(2)" there shall be substituted the words " section 84(4) ";

(c) after those definitions there shall be inserted the following definitions—

""contracted out functions" and "directly managed prison" have the meanings given by section 88A(5) above;";

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(d) after the definition of "prison" there shall be inserted the following definitions—

""prison officer" means an officer of a directly managed prison;

"prison rules" means rules made under section 47 of the 1952 Act;"; and

(e) after the definition of "prisoner escort arrangements" there shall be inserted the following definition—

""sub-contractor" has the meaning given by section 84(4) above.".

(8) After subsection (7) of section 102 of the 1991 Act (short title, commencement and extent) there shall be inserted the following subsection—

"(7A) Sections 80, 82 and 83 above, so far as relating to the delivery of prisoners to or from premises situated in a part of the British Islands outside England and Wales, extend to that part of those Islands.".

(9) For sub-paragraph (1) of paragraph 3 of Schedule 10 to that Act (certification of prisoner custody officers) there shall be substituted the following sub-paragraph—

"(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.".

(10) In sub-paragraph (2) of that paragraph, for the words "or controller" there shall be substituted the words " controller or governor ".

Extent Information

E10 S. 101 extends to England and Wales only except that s. 101(8) extends also to the British Islands see s. 172(7)(11)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

CHAPTER II

SCOTLAND

Extent Information

E11 Pt. VIII Chapter II extends to Scotland only except that ss. 102(1) to (3), 104, 105 and 117 extend also to the British Islands so far as relating to the transfer of prisoners to or from premises situated in a part of the British Islands outside Scotland see s. 172(12)

Prisoner escorts

102 Arrangements for the provision of prisoner escorts.

(1) The Secretary of State may make arrangements for any of the functions specified in subsection (2) below ("escort functions") to be performed in such cases as may be determined by or under the arrangements by prisoner custody officers who are authorised to perform such functions.

(2) Those functions are—

(a) the transfer of prisoners from one set of relevant premises to another;

(b) the custody of prisoners held on court premises (whether or not they would otherwise be in the custody of the court) and their production before the court;

(c) the custody of prisoners temporarily held in a prison in the course of transfer from one prison to another; and

(d) the custody of prisoners while they are outside a prison for temporary purposes.

(3) In paragraph (a) of subsection (2) above, "relevant premises" means—

(a) the premises of any court, prison, police station or hospital; or

(b) the premises of any other place from or to which a prisoner may be required to be taken under the **[**F137Criminal Procedure (Scotland) Act 1995**]** or the **[**F138Mental Health (Care and Treatment) (Scotland) Act 2003**]**;

and either (but not both) of the sets of premises mentioned in that paragraph may be situated in a part of the British Islands outside Scotland.

(4) Arrangements made by the Secretary of State under this section ("prisoner escort arrangements") may include entering into contracts with other persons for the provision by them of prisoner custody officers.

(5) Any person who, under a warrant or hospital order, is responsible for the performance of any such function as is mentioned in subsection (2) above shall be deemed to have complied with that warrant or order if he does all that he reasonably can to secure that the function is performed by a prisoner custody officer acting in pursuance of prisoner escort arrangements **[**F139or by a police custody and security officer in the performance of functions prescribed under section 9(1A)(b) of the Police (Scotland) Act 1967 (c. 77)**]**.

(6) In this section—

"hospital" has the same meaning as in the **[**F140Mental Health (Care and Treatment) (Scotland) Act 2003**]**;

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

"hospital order" means an order for a person's detention in, or admission to and detention in, a hospital under **[**F141section **[**F142 52D, 52M,**]** 53, 54 or **[**F143 57A**]** of the Act of 1995**]**F144... ; and

"warrant" means a warrant for committal, a warrant for arrest, a **[**F145transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003**]** or any other warrant, order or direction under the **[**F146Act of 1995**]**or **[**F147the Mental Health (Care and Treatment) (Scotland) Act 2003**]** requiring a person to be taken to a particular place.

Extent Information

E12 S. 102 extends to Scotland only; s. 102(1) to (3) extends also to the British Islands see s. 172(12)

Textual Amendments

F137 Words in s. 102(3)(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(3)(a)** (with Sch. 3)

F138 Words in s. 102(3)(b) substituted (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), arts. 1, 2, **Sch. 1 para. 24(2)(a)**

F139 Words in s. 102(5) added (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 76(10)**, 89; S.S.I. 2003/288, **art. 2**, Sch.

F140 Words in s. 102(6) substituted (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), arts. 1, 2, **Sch. 1 para. 24(2)(b)**

F141 Words in definition of "hospital order" in s. 102(6) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(3)(b)(i)** (with Sch. 3)

F142 Words in definition of "hospital order" in s. 102(6) inserted (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), arts. 1, 2, **Sch. 1 para. 24(2)(b)(ii)(aa)**

F143 Word in definition of "hospital order" in s. 102(6) substituted (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), arts. 1, 2, **Sch. 1 para. 24(2)(b)(ii)(bb)**

F144 Words in definition of "hospital order" in s. 102(6) omitted (27.9.2005) by virtue of The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), arts. 1, 2, **Sch. 1 para. 24(2)(b)(ii)(cc)**

F145 Words in definition of "warrant" in s. 102(6) substituted (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), arts. 1, 2, **Sch. 1 para. 24(2)(b)(iii)(aa)**

F146 Words in definition of "warrant" in s. 102(6) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(3)(b)(ii)** (with Sch. 3)

F147 Words in definition of "warrant" in s. 102(6) substituted (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), arts. 1, 2, **Sch. 1 para. 24(2)(b)(iii)(bb)**

103 Monitoring of prisoner escort arrangements.

(1) Prisoner escort arrangements shall include the appointment of a prisoner escort monitor, that is to say, a **[**F148member of the staff of the Scottish Administration**]** whose duty it shall be—

(a) to keep the arrangements under review and to report on them to the **[**Scottish Ministers**]**

(b) to investigate and report to the **[**F149Scottish Ministers**]** on any allegations made against prisoner custody officers acting in pursuance of the arrangements; and

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(c) to report to the **[**F149Scottish Ministers**]** on any alleged breaches of discipline on the part of prisoners for whose transfer or custody such officers so acting are responsible.

(2) In section 7(2) (functions of Her Majesty's Chief Inspector of Prisons for Scotland) of the 1989 Act—

(a) after "Inspector" there shall be inserted " —(a) "; and

(b) at the end there shall be inserted—

"; and

(b) to inspect the conditions in which prisoners are transported or held in pursuance of prisoner escort arrangements (within the meaning of section 102 of the M114Criminal Justice and Public Order Act 1994) and to report to the Secretary of State on them.".

Textual Amendments

F148 Words in s. 103(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(2)(a)**; S.I. 1998/3178, **art. 2**

F149 Words in s. 103(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2**, Pt. I, para. 115(2)(b); S.I. 1998/3178, **art. 2**

Marginal Citations

M114 1994 c. 33.

104 Powers and duties of prisoner custody officers performing escort functions.

(1) A prisoner custody officer acting in pursuance of prisoner escort arrangements shall have power to search—

(a) any prisoner for whose transfer or custody he is responsible in accordance with the arrangements; and

(b) any other person who is in or is seeking to enter any place where any such prisoner is or is to be held and any article in the possession of such a person.

(2) The power conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket, headgear and gloves.

(3) A prisoner custody officer shall, as respects prisoners for whose transfer or custody he is responsible in pursuance of prisoner escort arrangements, have the duty—

(a) to prevent their escape from legal custody;

(b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;

(c) to ensure good order and discipline on their part;

(d) to attend to their wellbeing; and

(e) to give effect to any directions as to their treatment which are given by a court.

(4) Where a prisoner custody officer acting in pursuance of prisoner escort arrangements is on any premises in which a court of summary jurisdiction is sitting he shall have

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the duty to give effect to any order of the court under **[**F150section 212 of the Criminal Procedure (Scotland) Act 1995**]**requiring an offender to be searched.

(5) The powers conferred by subsection (1) above and the powers arising by virtue of subsections (3) and (4) above shall include power to use reasonable force where necessary.

(6) Prison rules may make provision in relation to—

(a) the power conferred by subsection (1) above; and

(b) the duty imposed by subsection (3)(d) above.

Extent Information

E13 S. 104 extends to Scotland and the British Islands see s. 172(12)

Textual Amendments

F150 Words in s. 104(4) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(4)** (with Sch. 3)

105 Breaches of discipline by prisoners under escort.

(1) Where a prisoner for whose transfer or custody a prisoner custody officer has been responsible in pursuance of prisoner escort arrangements is delivered to a prison, he shall be deemed, for the purposes of such prison rules as relate to breaches of discipline, to have been—

(a) in the custody of the governor of the prison; or

(b) in the case of a contracted out prison, in the custody of its director,

at all times during the period for which that officer was so responsible, and that officer may bring a charge of breach of such rules as so relate against the prisoner in respect of any such time.

(2) Nothing in subsection (1) above shall render a prisoner liable to be punished under prison rules for any act or omission of his for which he has already been punished by a court.

(3) In this section "prison rules", in relation to a prison situated in a part of the British Islands outside Scotland, means rules made under any provision of the law of that part which corresponds to section 39 of the 1989 Act.

Extent Information

E14 S. 105 extends to Scotland and the British Islands see s. 172(12)

Contracted out prisons

106 Contracting out of prisons.

(1) The **[**F151Scottish Ministers**]** may enter into a contract with another person for the provision or running (or the provision and running) by him, or (if the contract so provides) for the running by sub-contractors of his, of any prison or part of a prison in Scotland.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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) While a contract under this section for the running of a prison or part of a prison is in force—

(a) the prison or part shall be run subject to and in accordance with—

(i) sections 107 and 108 below; and

(ii) the 1989 Act and prison rules and directions made under or by virtue of that Act (all as modified by section 110 below); and

(b) in the case of a part, that part and the remaining part shall each be treated for the purposes of sections 107 to 112 below as if they were separate prisons.

(3) Where the **[**F151Scottish Ministers**]**grants a lease for the purpose of any contract under this section, none of the following enactments shall apply to it—

(a) sections 4 to 7 of the M115Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (irritancy clauses); and

(b) the M116Agricultural Holdings (Scotland) Act 1991 **[**F152and the Agricultural Holdings (Scotland) Act 2003 (asp 11)**]** .

In this subsection "lease" includes a sub-lease.

(4) In this Chapter—

"contracted out prison" means a prison or part of a prison for the running of which a contract under this section is for the time being in force;

"the contractor", in relation to a contracted out prison, means the person who has contracted with the **[**F151Scottish Ministers**]** for the running of it; and

"sub-contractor", in relation to a contracted out prison, means a person who has contracted with the contractor for the running of it or any part of it.

Textual Amendments

F151 Words in s. 106 substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I**, para. 115(3); S.I. 1998/3178, **art. 2**

F152 Words in s. 106(3)(b) inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp 11), ss. 94, 95(3)(4), **Sch. para. 50** (with s. 95(1)); S.S.I. 2003/548, **art. 2(i)**

Marginal Citations

M115 1985 c.73.

M116 1991 c.55.

107 Officers of contracted out prisons.

(1) Instead of a governor, every contracted out prison shall have—

(a) a director, who shall be a prisoner custody officer appointed by the contractor and specially approved for the purposes of this section by the **[**F153Scottish Ministers**]** and

(b) a controller, who shall be a **[**F154member of the staff of the Scottish Administration**]** appointed by the **[**F153Scottish Ministers**]**,

and every officer of such a prison who performs custodial duties shall be a prisoner custody officer who is authorised to perform such duties or a prison officer who is temporarily attached to the prison.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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) Subject to subsection (3) below, the director shall have the same functions as are conferred on a governor by the 1989 Act and by prison rules.

(3) The director shall not—

(a) have any function which is conferred on a controller by virtue of subsection (4) below;

(b) inquire into a disciplinary charge brought against a prisoner, conduct the hearing of such a charge or make, remit or mitigate an award in respect of such a charge; or

(c) except in cases of urgency, order the removal of a prisoner from association with other prisoners, the temporary confinement of a prisoner in a special cell or the application to a prisoner of any other special control or restraint.

(4) The controller shall have such functions as may be conferred on him by prison rules and shall be under a duty—

(a) to keep under review, and report to the **[**F155Scottish Ministers**]** on, the running of the prison by or on behalf of the director; and

(b) to investigate, and report to the **[**Scottish Ministers**]** on, any allegations made against prisoner custody officers performing custodial duties at the prison or prison officers who are temporarily attached to the prison.

(5) The contractor and any sub-contractor of his shall each be under a duty to do all that he reasonably can (whether by giving directions to the officers of the prison or otherwise) to facilitate the exercise by the controller of all such functions as are mentioned in or conferred by subsection (4) above.

[F156(6) Without prejudice to section 11(2) of the 1989 Act (direction by Secretary of State for prisoner to be taken hospital for treatment), the contractor shall secure the provision of appropriate medical services within the prison by—

(a) appointing one or more registered medical practitioners to the prison;

(b) entering into an arrangement with any person for the provision of such services in relation to the prison; or

(c) both making any such appointment as is mentioned in paragraph (a) above and entering into such an arrangement as is mentioned in paragraph (b) above.

(7) In subsection (6) above "appropriate medical services" means such services in relation to—

(a) routine and emergency health care for prisoners; and

(b) the provision of advice to the director on matters related to the medical treatment and health of prisoners generally,

as the **[**F157Scottish Ministers**]** may direct or, in the absence of such a direction, as the contractor considers appropriate for the prison in which they are to be provided; and such services shall be provided by or under the supervision of a registered medical practitioner.

(8) In subsections (6) and (7) above "contractor", where the contract provides for the running of prison by a sub-contractor, means that sub-contractor.**]**

Textual Amendments

F153 Words in s. 107(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2**, Pt. I, para. 115(4)(a)(i); S.I. 1998/3178, **art. 2**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

F154 Words in s. 107(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(4)(a)(ii)**; S.I. 1998/3178, **art. 2**

F155 Words in s. 107(4) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(4)(b)**; S.I. 1998/3178, **art. 2**

F156 S. 107(6)-(8) substituted (1.1.1998) for s. 107(6) by 1997 c. 48, **s. 43(4)**; S.I. 1997/2323, art. 4, **Sch. 2**

F157 Words in s. 107(7) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(4)(c)**; S.I. 1998/3178, **art. 2**

108 Powers and duties of prisoner custody officers employed at contracted out prisons.

(1) A prisoner custody officer performing custodial duties at a contracted out prison shall have power to search—

(a) any prisoner who is confined in the prison or for whose custody he is responsible; and

(b) any other person who is in or is seeking to enter the prison and any article in the possession of such a person.

(2) The power conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket, headgear and gloves.

(3) A prisoner custody officer performing custodial duties at a contracted out prison shall, as respects the prisoners for whose custody he is responsible, have the duty—

(a) to prevent their escape from legal custody;

(b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;

(c) to ensure good order and discipline on their part; and

(d) to attend to their wellbeing.

(4) The powers conferred by subsection (1) above and the powers arising by virtue of subsection (3) above shall include power to use reasonable force where necessary.

109 Breaches of discipline by prisoners temporarily out of contracted out prison.

(1) This section applies where a prisoner custody officer who performs custodial duties at a contracted out prison is responsible for the custody of a prisoner who is outside the prison for temporary purposes.

(2) For the purposes of such prison rules as relate to breaches of discipline the prisoner shall be deemed to have been in the custody of the director of the prison at all times during the period for which the prisoner custody officer was so responsible, and that officer may bring a charge of breach of such rules as so relate against the prisoner in respect of any such time.

(3) Nothing in subsection (1) above shall render a prisoner liable to be punished under prison rules for any act or omission of his for which he has already been punished by a court.

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

110 Consequential modifications of 1989 Act, prison rules and directions.

(1) In relation to a contracted out prison, the provisions specified in subsections (2) to (7) below shall have effect subject to the modifications so specified.

(2) In section 3 of the 1989 Act (general superintendence of prisons)—

[F158(a) subsection (1A) shall not apply;**]**

(b) subsection (3) shall not apply.

(3) In sections **[**F159 3A(6) (power to authorise searches of persons providing medical services),**]** 9(5), 11(4), 15(1) and (3) (various functions of the governor of a prison), 33A (power of governor to delegate functions), 34 (duty of governor where prisoner dies), 39(8) and (12) (prison rules), 41(4) (detention of person suspected of bringing prohibited article into prison) **[**F160, 41B(3) (testing prisoners for drugs) and 41C(3) (testing prisoners for alcohol)**]** of that Act, in prison rules and in directions made by virtue of section 39(8) of that Act the reference to the governor shall be construed as a reference to the director.

(4) In sections **[**F161 3A(6) (power to carry out searches of persons providing medical services),**]** 11(4) (execution of certain warrants by prison officers etc.), 13(b) (legal custody of prisoners), 33A (power of governor to delegate functions), 40(1) (persons unlawfully at large), 41(3), (4), (6) and (8) (detention of person suspected of bringing prohibited article into prison) **[**F162, 41B(1) (testing prisoners for drugs) and 41C(1) (testing prisoners for alcohol)**]** of that Act, the reference to an officer of a prison (or, as the case may be, a prison officer) shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison or a prison officer temporarily attached to the prison.

[F163(4A) A registered medical practitioner appointed to a contracted out prison or providing, or supervising the provision of, appropriate medical services in accordance with an arrangement made under section 107(6)(b) of this Act shall be deemed to be a medical officer for the prison for the purposes of—

(a) section 111(3)(c) of this Act;

(b) section 27(5) of the 1989 Act (so far as that section continues to have effect by virtue of Schedule 6 to the M117 Prisoners and Criminal Proceedings (Scotland) Act 1993 (existing provisions which continue to have effect in relation to prisoners sentenced before 1st October 1993)); and

(c) any rules or directions made or issued under section 39 of the 1989 Act,

unless such rules or directions otherwise provide or the context otherwise requires.**]**

(5) Section 36 of that Act (vesting of prison property in Secretary of State) shall have effect subject to the provisions of the contract entered into under section 106 above.

(6) Sections **[**F164 3A(1) to (5)(medical services),**]** 37 (discontinuance of prison), 41(2A) and (2B) (power to search for prohibited articles) and 41A (powers of search by authorised employees) of that Act shall not apply.

(7) In prison rules, in subsection (8) of section 39 of that Act (directions supplementing prison rules) and in any direction made by virtue of that subsection, the reference to an officer of a prison (or, as the case may be, a prison officer) shall be construed as including a reference to a prisoner custody officer performing custodial duties at the prison.

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Textual Amendments

F158 S. 110(2)(a) substituted (1.7.1999) by S.I. 1999/1820 arts. 1(2), 4, Sch. 2, Pt. I, para. 115(5); S.I. 1998/3178, **art. 2**

F159 Words in s. 110(3) inserted (1.1.1998) by 1997 c. 48, **s. 43(5)(a)**; S.I. 1997/2323, art. 4, **Sch. 2**

F160 Words in s. 110(3) substituted (1.1.1998) by 1997 c. 48, s. 62(1), **Sch. 1 para. 15(a)**; S.I. 1997/2323, art. 4, **Sch. 2**

F161 Words in s. 110(4) inserted (1.1.1998) by 1997 c. 48, **s. 43(5)(b)**; S.I. 1997/2323, art. 4, **Sch. 2**

F162 Words in s. 110(4) substituted (1.1.1998) by 1997 c. 48, s. 62(1), **Sch. 1 para. 15(b)**; S.I. 1997/2323, art. 4, **Sch. 2**

F163 S. 110(4A) inserted (1.1.1998) by 1997 c. 48, **s. 43(5)(c)**; S.I. 1997/2323, art. 4, **Sch. 2**

F164 Words in s. 110(6) inserted (1.1.1998) by 1997 c. 48, **s. 43(5)(d)**; S.I. 1997/2323, art. 4, **Sch. 2**

Marginal Citations

M117 1993 c.9.

111 Intervention by the Secretary of State.

(1) This section applies where, in the case of a contracted out prison, it appears to the **[**[F165]Scottish Ministers**]**—

(a) that the director has lost or is likely to lose effective control of the prison or any part of it; and

(b) that the making of an appointment under subsection (2) below is necessary in the interests of preserving the safety of any person or preventing serious damage to any property.

(2) The **[**[F166]Scottish Ministers may appoint a member of the staff of the Scottish Administration**]**to act as governor of the prison for the period—

(a) beginning with the time specified in the appointment; and

(b) ending with the time specified in the notice of termination under subsection (4) below.

(3) During that period—

(a) all the functions which would otherwise be exercisable by the director or the controller shall be exercisable by the governor;

(b) the contractor and any sub-contractor of his shall each do all that he reasonably can to facilitate the exercise by the governor of those functions; and

(c) the officers of the prison shall comply with any directions given by the governor in the exercise of those functions.

(4) Where the **[**[F167]Scottish Ministers**]** is satisfied—

(a) that the governor has secured effective control of the prison or, as the case may be, the relevant part of it; and

(b) that the governor's appointment is no longer necessary as mentioned in subsection (1)(b) above,

he shall, by a notice to the governor, terminate the appointment at a time specified in the notice.

(5) As soon as practicable after making or terminating an appointment under this section, the **[**[F168]Scottish Ministers**]** shall give a notice of the appointment, or a copy of the

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notice of termination, to the contractor, any sub-contractor of his, the director and the controller.

Textual Amendments

F165 Words in s. 111(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(6)(a)**; S.I. 1998/3178, **art. 2**

F166 Words in s. 111(2) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(6)(b)**; S.I. 1998/3178, **art. 2**

F167 Words in s. 111(4) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(6)(c)**; S.I. 1998/3178, **art. 2**

F168 Words in s. 111(5) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(6)(d)**; S.I. 1998/3178, **art. 2**

Contracted out functions

112 Contracted out functions at directly managed prisons.

(1) The Secretary of State may enter into a contract with another person for any functions at a directly managed prison to be performed by prisoner custody officers who are provided by that person and are authorised to perform custodial duties.

(2) Sections 108 and 109 above shall apply in relation to a prisoner custody officer performing contracted out functions at a directly managed prison as they apply in relation to such an officer performing custodial duties at a contracted out prison, but as if the reference in section 109(2) to the director of the contracted out prison were a reference to the governor of the directly managed prison.

(3) In relation to a directly managed prison, the references to an officer of a prison (or, as the case may be, a prison officer) in the provisions specified in subsection (4) below shall each be construed as including a reference to a prisoner custody officer performing custodial duties at the prison in pursuance of a contract under this section.

(4) Those provisions are—

[F169(aa) section 3A(6) and (7) of the 1989 Act (searches of persons providing medical services);**]**

(a) section 11(4) of **[**F170that**]** Act (execution of certain warrants by prison officers etc.);

(b) section 13(b) of that Act (legal custody of prisoners);

(c) section 33A of that Act (power of governor to delegate functions);

(d) subsection (8) of section 39 of that Act (directions supplementing prison rules) and directions made by virtue of that subsection;

(e) section 40(1) of that Act (persons unlawfully at large);

(f) section 41(3), (4), (6) and (8) of that Act (prohibited articles); and

(g) prison rules.

(5) Section 41(2A) and (2B) of the 1989 Act (search of person suspected of bringing prohibited article into prison) shall not apply in relation to a prisoner custody officer performing contracted out functions at a directly managed prison.

(6) Any reference in the foregoing provisions of this section to the performance of functions or custodial duties at a directly managed prison includes a reference to the

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performance of functions or such duties for the purposes of, or for purposes connected with, such a prison.

(7) In this Chapter—

"contracted out functions" means any functions which, by virtue of a contract under this section, fall to be performed by prisoner custody officers; and

"directly managed prison" means a prison which is not a contracted out prison.

Textual Amendments

F169 S. 112(4)(aa) inserted (1.1.1998) by 1997 c. 48, **s. 43(6)(a)**; S.I. 1997/2323, art. 4, **Sch. 2**

F170 Word in s. 112(4)(a) substituted (1.1.1998) by 1997 c. 48, **s. 43(6)(b)**; S.I. 1997/2323, art. 4, **Sch. 2**

Provision of new prisons

113 Provision of new prisons.

(1) The **[**F171Scottish Ministers**]** may declare to be a prison—

(a) any building or part of a building built or adapted for the purpose; and

(b) any floating structure or part of such a structure constructed or adapted for the purpose,

whether vested in, or under the control of, the **[**F171Scottish Ministers**]** or any other person.

(2) Section 106(1) and subsection (1) above are without prejudice to the **[**F171Scottish Ministers**]** powers under the 1989 Act with respect to the provision of prisons.

(3) A declaration under subsection (1) above—

(a) shall have effect for the purposes of the 1989 Act and any other enactment (including an enactment contained in subordinate legislation);

(b) shall not be sufficient to vest the legal estate in any building or structure in the **[**F171Scottish Ministers**]**; and

(c) may be revoked by the **[**F171Scottish Ministers**]** at any time other than a time when the prison to which it relates is a contracted out prison.

(4) Nothing in section 36 of the 1989 Act (prison property to be vested in the **[**F171Scottish Ministers**]**) shall require the legal estate in—

(a) any prison provided under a contract entered into under section 106(1) above;

(b) any prison declared to be such under subsection (1) above and not vested in the **[**F171Scottish Ministers**]**; or

(c) any heritable or moveable property belonging to any prison mentioned in paragraph (a) or (b) above,

to be vested in the **[**F171Scottish Ministers**]**.

Textual Amendments

F171 Words in s. 113 substituted (1.7.1999) by S.I 1999/1820, arts. 1(2), 4, Sch. 2, Pt. I para. 115(7); S.I. 1998/3178, **art. 2**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

114 Prisoner custody officers: general provisions.

(1) In this Chapter "prisoner custody officer" means a person in respect of whom a certificate is for the time being in force certifying—

(a) that he has been approved by the **[**F172Scottish Ministers**]** for the purpose of performing escort functions or custodial duties or both; and

(b) that he is accordingly authorised to perform them.

(2) Schedule 6 to this Act shall have effect with respect to the certification of prisoner custody officers.

(3) Prison rules may make provision regarding the powers and duties of prisoner custody officers performing custodial duties.

Textual Amendments

F172 Words in s. 114(1)(a) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(8)**; S.I. 1998/3178, **art. 2**

115 Wrongful disclosure of information.

(1) A person who—

(a) is or has been employed (whether as a prisoner custody officer or otherwise) in pursuance of prisoner escort arrangements, or at a contracted out prison; or

(b) is or has been employed to perform contracted out functions at a directly managed prison,

shall be guilty of an offence if he discloses, otherwise than in the course of his duty or as authorised by the **[**F173Scottish Ministers**]**, any information which he acquired in the course of his employment and which relates to a particular prisoner.

(2) A person guilty of an offence under subsection (1) above shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

Textual Amendments

F173 Words in s. 115(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(9)**; S.I. 1998/3178, **art. 2**

116 Minor and consequential amendments.

(1) In section 19(4)(b) of the 1989 Act (remand centres and young offenders institutions), for "33" there shall be substituted " 33A ".

(2) Section 33 of that Act (miscellaneous duties of prison governor) shall cease to have effect.

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(3) After section 33 of that Act there shall be inserted the following section—

"**33A Power of governor to delegate functions.**

Rules made under section 39 of this Act may permit the governor of a prison to authorise an officer of the prison, or a class of such officers, to exercise on his behalf such of the governor's functions as the rules may specify.".

(4) In section 39 of that Act (prison rules)—

(a) in subsection (1), after "Act" there shall be inserted " or any other enactment ";

(b) in subsection (8), for "the purpose so specified" there shall be substituted " any purpose specified in the rules "; and

(c) after subsection (11), there shall be inserted the following subsection—

"(12) Rules made under this section may (without prejudice to the generality of subsection (1) above) confer functions on a governor.".

117 Interpretation of Chapter II.

(1) In this Chapter, except where otherwise expressly provided—

"the 1989 Act" means the [M118]Prisons (Scotland) Act 1989;

"contracted out prison" and "the contractor" have the meanings given by section 106(4) above;

"contracted out functions" and "directly managed prison" have the meanings given by section 112(7) above;

"custodial duties" means custodial duties at a contracted out or a directly managed prison;

"escort functions" has the meaning given by section 102(1) above;

"prison" includes—

(a) any prison other than a naval, military or air force prison; and

(b) a remand centre or young offenders institution within the meaning of section 19 of the 1989 Act;

"prison officer" means an officer of a directly managed prison;

"prison rules" means rules made under section 39 of the 1989 Act;

"prisoner" means any person who is in legal custody or is deemed to be in legal custody under **[**[F174]section 295 of the Criminal Procedure (Scotland) Act 1995**]**;

"prisoner custody officer" has the meaning given by section 114(1) above;

"prisoner escort arrangements" has the meaning given by section 102(4) above; and

"sub-contractor" has the meaning given by section 106(4) above.

(2) Any reference in this Chapter to custodial duties at a contracted out or directly managed prison includes a reference to custodial duties in relation to a prisoner who is outside such a prison for temporary purposes.

(3) In sections 102(1) to (3), 104 and 105 above, "prison"—

(a) so far as relating to the transfer of prisoners to or from a prison situated in England and Wales, includes a young offender institution and a remand centre; and

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(b) so far as relating to the transfer of prisoners to or from a prison situated in Northern Ireland, includes a young offenders centre and a remand centre.

Extent Information

E15 S. 117 extends to Scotland and the British Islands see s. 172(12)

Textual Amendments

F174 Words in definition of "prisoner" in s. 117(1) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(5)** (with Sch. 3)

Marginal Citations

M118 1989 c. 45.

CHAPTER III

NORTHERN IRELAND

Extent Information

E16 Pt. VIII Chapter III extends to Northern Ireland only except that ss. 118, 120, 121 and 125 extend also to the British Islands so far as relating to the delivery of prisoners situated in a part of the british Islands outside Northern Ireland see s. 172(14)

Prisoner escorts

[F175 117A Exercise of functions by the Department of Justice

(1) This Chapter, except so far as it relates to the delivery of prisoners to or from premises situated outside the United Kingdom, has effect subject to the following modifications.

(2) Any reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.

(3) Subsections (4) and (5) below apply instead of section 120(6) and paragraph 3(3) of Schedule 7.

(4) The power of the Department of Justice to make rules under section 120 or to make regulations under paragraph 3 of Schedule 7 shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(5) Rules made by the Department of Justice under section 120, and regulations made by the Department of Justice under paragraph 3 of Schedule 7, shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).]

Textual Amendments

F175 S. 117A inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 2** (with arts. 28-31)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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118 Arrangements for the provision of prisoner escorts.

(1) The Secretary of State may make arrangements for any of the following functions, namely—

(a) the delivery of prisoners from one set of relevant premises to another;

(b) the custody of prisoners held on the premises of any court (whether or not they would otherwise be in the custody of the court) and their production before the court;

(c) the custody of prisoners temporarily held in a prison in the course of delivery from one prison to another; and

(d) the custody of prisoners while they are outside a prison for temporary purposes;

to be performed in such cases as may be determined by or under the arrangements by prisoner custody officers who are authorised to perform such functions.

(2) In paragraph (a) of subsection (1) above, "relevant premises" means a court, prison, police station or hospital; and either (but not both) of the sets of premises mentioned in that paragraph may be situated in a part of the British Islands outside Northern Ireland.

(3) Arrangements made by the Secretary of State under this section ("prisoner escort arrangements") may include entering into contracts with other persons for the provision by them of prisoner custody officers.

(4) Any person who, under a warrant or a hospital order or remand, is responsible for the performance of any such function as is mentioned in subsection (1) above shall be deemed to have complied with that warrant, order or remand if he does all that he reasonably can to secure that the function is performed by a prisoner custody officer acting in pursuance of prisoner escort arrangements.

(5) In this section—

"hospital" has the same meaning as in the [M119]Mental Health (Northern Ireland) Order 1986;

"hospital order" means an order for a person's admission to hospital under Article 44, 45, 49 or 50 of that Order, or section 11 or 13 of the [M120]Criminal Appeal (Northern Ireland) Act 1980;

"hospital remand" means a remand of a person to hospital under Article 42 or 43 of the Mental Health (Northern Ireland) Order 1986;

"warrant" means a warrant of commitment, a warrant of arrest or a warrant under Article 52, 53, 54, 56 or 79 of that Order.

Extent Information

E17 S. 118 extends to Northern Ireland and the British Islands see s. 172(14)

Marginal Citations

M119 S.I. 1986/595 (N.I. 4).

M120 1980 c. 47.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

119 Monitoring etc. of prisoner escort arrangements.

(1) Prisoner escort arrangements shall include the appointment of a prisoner escort monitor, that is to say, a Crown servant whose duty it shall be to keep the arrangements under review and to report on them to the Secretary of State.

(2) It shall also be the duty of a prisoner escort monitor to investigate and report to the Secretary of State on—

(a) any allegations made against prisoner custody officers acting in pursuance of the arrangements; and

(b) any alleged breaches of discipline on the part of prisoners for whose delivery or custody such officers so acting are responsible.

120 Powers and duties of prisoner custody officers acting in pursuance of such arrangements.

(1) A prisoner custody officer acting in pursuance of prisoner escort arrangements shall have the following powers, namely—

(a) to search in accordance with rules made by the Secretary of State any prisoner for whose delivery or custody he is responsible in accordance with the arrangements; and

(b) to search any other person who is in or is seeking to enter any place where any such prisoner is or is to be held and any article in the possession of such a person.

(2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, hat, jacket or gloves.

(3) A prisoner custody officer shall have the following duties as respects prisoners for whose delivery or custody he is responsible in pursuance of prisoner escort arrangements, namely—

(a) to prevent their escape from lawful custody;

(b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;

(c) to ensure good order and discipline on their part;

(d) to attend to their wellbeing; and

(e) to give effect to any directions as to their treatment which are given by a court,

and the Secretary of State may make rules with respect to the performance by prisoner custody officers of their duty under paragraph (d) above.

(4) Where a prisoner custody officer acting in pursuance of prisoner escort arrangements is on any premises in which a magistrates' court is sitting, it shall be his duty to give effect to any order of that court made under Article 110 of the [M121]Magistrates' Courts (Northern Ireland) Order 1981 (application of funds found upon defaulter).

(5) The powers conferred by subsection (1) above and the powers arising by virtue of subsections (3) and (4) above shall include power to use reasonable force where necessary.

(6) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Extent Information
E18 S. 120 extends to Northern Ireland and British Islands see s. 172(14)

Marginal Citations
M121 S.I. 1981/1675 (N.I.26).

121 Breaches of discipline by prisoners under escort.

(1) This section applies where a prisoner for whose delivery or custody a prisoner custody officer has been responsible in pursuance of prisoner escort arrangements is delivered to a prison.

(2) For the purpose of such prison rules as relate to disciplinary offences, the prisoner shall be deemed to have been in the custody of the governor of the prison at all times during the period for which the prisoner custody officer was so responsible.

(3) In the case of any breach by the prisoner at any time during the period of such prison rules as so relate, a disciplinary charge may be laid against him by the prisoner custody officer.

(4) Nothing in this section shall enable a prisoner to be punished under prison rules for any act or omission of his for which he has already been punished by a court.

(5) In this section "prison rules", in relation to a prison situated in a part of the British Islands outside Northern Ireland, means rules made under any provision of the law of that part which corresponds to section 13 of the [M122]Prison Act (Northern Ireland) 1953.

Extent Information
E19 S. 121 extends to Northern Ireland and British Islands see s. 172(14)

Marginal Citations
M122 1953 c. 18 (N.I.).

Supplemental

122 Certification of custody officers.

(1) In this Chapter "prisoner custody officer" means a person in respect of whom a certificate is for the time being in force certifying—
(a) that he has been approved by the Secretary of State for the purpose of performing escort functions; and
(b) that he is accordingly authorised to perform them.

(2) Schedule 7 to this Act shall have effect with respect to the certification of prisoner custody officers.

(3) In this section and Schedule 7 to this Act "escort functions" means the functions specified in section 118(1) above.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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123 Protection of prisoner custody officers.

(1) Any person who assaults a prisoner custody officer acting in pursuance of prisoner escort arrangements shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.

(2) [F176] . . . . . .

(3) Any person who resists or wilfully obstructs a prisoner custody officer acting in pursuance of prisoner escort arrangements shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) For the purposes of this section, a prisoner custody officer shall not be regarded as acting in pursuance of prisoner escort arrangements at any time when he is not readily identifiable as such an officer (whether by means of a uniform or badge which he is wearing or otherwise).

Textual Amendments

F176 S. 123(2) repealed (1.2.2005) by The Firearms (Northern Ireland) Order 2004 (N.I. 3), art. 1(3), {Sch. 8}; S.R. 2005/4, **art. 3**

124 Wrongful disclosure of information.

(1) A person who is or has been employed (whether as a prisoner custody officer or otherwise) in pursuance of prisoner escort arrangements shall be guilty of an offence if he discloses, otherwise than in the course of his duty or as authorised by the Secretary of State, any information which he acquired in the course of his employment and which relates to a particular prisoner.

(2) A person guilty of an offence under subsection (1) above shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

125 Interpretation of Chapter III.

(1) In this Chapter—

"prison" includes a young offenders centre or remand centre;

"prisoner custody officer" has the meaning given by section 122(1) above;

"prison rules" means rules made under section 13 of the [M123]Prison Act (Northern Ireland) 1953;

"prisoner" means any person for the time being detained in lawful custody as the result of a requirement imposed by a court or otherwise that he be so detained;

"prisoner escort arrangements" has the meaning given by section 118(3) above.

(2) Sections 118, 119(1) and (2)(a), 120 and 122 to 124 above, subsection (1) above and Schedule 7 to this Act shall have effect as if—

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(a) any reference in section 118(1), 119(1), 120 or 124 above to prisoners included a reference to persons remanded or committed to custody in certain premises under section 51, 74 or 75 of the [M124]Children and Young Persons Act (Northern Ireland) 1968 or ordered to be sent to a training school under section 74 or 78 of that Act; and

(b) any reference in section 118(1)(c) or (d) or (2) above to a prison included a reference to such premises or training school.

(3) In sections 118, 120 and 121 above, "prison"—

(a) so far as relating to the delivery of prisoners to or from a prison situated in England and Wales, includes a **[**[F177]remand centre or**]** young offender institution; and

(b) so far as relating to the delivery of prisoners to or from a prison situated in Scotland, includes a remand centre or young offenders institution within the meaning of section 19 of the [M125]Prisons (Scotland) Act 1989.

Extent Information

E20 S. 125 extends to Northern Ireland and British Islands see s. 172(14)

Textual Amendments

F177 Words in s. 125(3)(a) repealed (*prosp.*) by 2000 c. 43, ss. 75, 80, **Sch. 8**

Marginal Citations

M123 1953 c. 18 (N.I.).
M124 1968 c. 34 (N.I.).
M125 1989 c. 45.

CHAPTER IV

THE PRISON SERVICE

126 Service in England and Wales and Northern Ireland.

(1) The relevant employment legislation shall have effect as if an individual who as a member of the prison service acts in a capacity in which he has the powers or privileges of a constable were not, by virtue of his so having those powers or privileges, to be regarded as in police service for the purposes of any provision of that legislation.

(2) In this section "the relevant employment legislation" means—

[[F178](a) the Trade Union and Labour Relations (Consolidation) Act 1992 and the Employment Rights Act 1996;**]**

[[F179](b) the Trade Union and Labour Relations (Northern Ireland) Order 1995 and the Employment Rights (Northern Ireland) Order 1996.**]**

(3) For the purposes of this section a person is a member of the prison service if he is an individual holding a post to which he has been appointed for the purposes of section 7 of the [M126]Prison Act 1952 or under section 2(2) of the [M127]Prison Act (Northern Ireland) 1953 (appointment of prison staff).

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(4) Except for the purpose of validating anything that would have been a contravention of section 127(1) below if it had been in force, subsection (1) above, so far as it relates to the question whether an organisation consisting wholly or mainly of members of the prison service is a trade union, shall be deemed always to have had effect and to have applied, in relation to times when provisions of the relevant employment legislation were not in force, to the corresponding legislation then in force.

(5) Subsection (6) below shall apply where—

(a) the certificate of independence of any organisation has been cancelled, at any time before the passing of this Act, in consequence of the removal of the name of that organisation from a list of trade unions kept under provisions of the relevant employment legislation; but

(b) it appears to the Certification Officer that the organisation would have remained on the list, and that the certificate would have remained in force, had that legislation had effect at and after that time in accordance with subsection (1) above.

(6) Where this subsection applies—

(a) the Certification Officer shall restore the name to the list and delete from his records any entry relating to the cancellation of the certificate;

(b) the removal of the name from the list, the making of the deleted entry and the cancellation of the certificate shall be deemed never to have occurred; and

(c) the organisation shall accordingly be deemed, for the purposes for which it is treated by virtue of subsection (4) above as having been a trade union, to have been independent throughout the period between the cancellation of the certificate and the deletion of the entry relating to that cancellation.

Textual Amendments

F178 S. 126(2)(a) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 65** (with ss. 191-195, 202)

F179 S. 126(2)(b) substituted (N.I.) (24.9.1996) by S.I. 1996/1919 (N.I. 16), arts. 255, 256, **Sch. 1** (with savings and transitional provisions in Sch. 2)

Marginal Citations

M126 1952 c. 52.

M127 1953 c. 18 (N.I.).

127 Inducements to withhold services or to indiscipline.

(1) A person contravenes this subsection if he induces a prison officer—

[F180(a) to take (or continue to take) any industrial action;**]**

(b) to commit a breach of discipline.

[F181(1A) In subsection (1) " industrial action " means—

(a) the withholding of services as a prison officer; or

(b) any action that would be likely to put at risk the safety of any person (whether a prisoner, a person working at or visiting a prison, a person working with prisoners or a member of the public).**]**

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(2) The obligation not to contravene subsection (1) above shall be a duty owed to the Secretary of State. **[**F182or, in Scotland, to the Scottish Ministers**][**F183or, in Northern Ireland, to the Department of Justice**]**

(3) Without prejudice to the right of the Secretary of State **[**or, in Scotland, to the Scottish Ministers**][**F184or, in Northern Ireland, of the Department of Justice**]**, by virtue of the preceding provisions of this section, to bring civil proceedings in respect of any apprehended contravention of subsection (1) above, any breach of the duty mentioned in subsection (2) above which causes the Secretary of State **[**F182or, in Scotland, to the Scottish Ministers**][**F185or, in Northern Ireland, the Department of Justice**]** to sustain loss or damage shall be actionable, at his suit or instance, against the person in breach.

(4) In this section "prison officer" means any individual who—

(a) holds any post, otherwise than as a chaplain or assistant chaplain or as a medical officer, to which he has been appointed F186. . . under section 2(2) of the M128Prison Act (Northern Ireland) 1953 (appointment of prison staff),

[F187(aa) holds any post, other than as a chaplain or assistant chaplain, to which he has been appointed for the purposes of section 7 of the Prison Act 1952 (appointment of prison staff),**]**

(b) F188. . . . . .

(c) is a custody officer within the meaning of Part I of this Act or a prisoner custody officer, within the meaning of Part IV of the M129Criminal Justice Act 1991 or Chapter II or III of this Part.

(5) The reference in subsection (1) above to a breach of discipline by a prison officer is a reference to a failure by a prison officer to perform any duty imposed on him by the prison rules or any code of discipline having effect under those rules or any other contravention by a prison officer of those rules or any such code.

(6) In subsection (5) above "the prison rules" means any rules for the time being in force under section 47 of the Prison Act 1952, section 39 of the Prisons (Scotland) Act 1989 or section 13 of the Prison Act (Northern Ireland) 1953 (prison rules).

(7) This section shall be disregarded in determining for the purposes of any of the relevant employment legislation whether any trade union is an independent trade union.

(8) Nothing in the relevant employment legislation shall affect the rights of the Secretary of State **[**F189or in Scotland, the Scottish Ministers**][**F190or, in Northern Ireland, the Department of Justice**]** by virtue of this section.

(9) In this section "the relevant employment legislation" has the same meaning as in section 126 above.

Textual Amendments

F180 S. 127(1)(a) substituted (8.5.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 138(2)**, 153(1)(d)

F181 S. 127(1A) inserted (8.5.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 138(3)**, 153(1)(d)

F182 Words in s. 127(2)(3) inserted (1.7.1999) by S.I. 1999/1820 arts. 1(2), 4, Sch. 2 Pt. I para. 115(10)(a); S.I. 1998/3178, **art. 2**

F183 Words in s. 127(2) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 3(a)** (with arts. 28-31)

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F184 Words in s. 127(3) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 3(b)** (with arts. 28-31)

F185 Words in s. 127(3) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 3(c)** (with arts. 28-31)

F186 Words in s. 127(4)(a) omitted (22.3.2005) by virtue of The Regulatory Reform (Prison Officers) (Industrial Action) Order 2005 (S.I. 2005/908), arts. 1, **2(a)**

F187 S. 127(4)(aa) inserted (8.5.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 138(4)**, 153(1)(d)

F188 S. 127(4)(b) omitted (22.3.2005) by virtue of The Regulatory Reform (Prison Officers) (Industrial Action) Order 2005 (S.I. 2005/908), arts. 1, **2(b)**

F189 Words in s. 127(8) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 115(10)(c)**; S.I. 1998/3178, **art. 2**

F190 Words in s. 127(8) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 3(d)** (with arts. 28-31)

Marginal Citations

M128 1953 c. 18 (N.I.).

M129 1991 c. 53.

[F191 127A Power to suspend the operation of section 127

(1) The Secretary of State may make orders suspending, or later reviving, the operation of section 127.

[F192(1A) In the application of this section to Northern Ireland, in subsection (1) the reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.**]**

(2) An order under this section may make different provision in relation to different descriptions of prison officer.

(3) The power to make orders under this section is exercisable by statutory instrument**[** F193(subject to subsection (5))**]**.

(4) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.**]**

[F194(5) The power of the Department of Justice in Northern Ireland to make orders under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument).

(6) No order may be made by the Department of Justice under this section unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.**]**

Textual Amendments

F191 S. 127A inserted (8.5.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 139**, 153(1)(d)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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F192 S. 127A(1A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 4(2)** (with arts. 28-31)

F193 Words in s. 127A(3) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 4(3)** (with arts. 28-31)

F194 S. 127A(5)-(7) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 4(4)** (with arts. 28-31)

128 Pay and related conditions.

(1) The Secretary of State may by regulations provide for the establishment, maintenance and operation of procedures for the determination from time to time of—

(a) the rates of pay and allowances to be applied to the prison service; and

(b) such other terms and conditions of employment in that service as may appear to him to fall to be determined in association with the determination of rates of pay and allowances.

(2) Before making any regulations under this section the Secretary of State shall consult with such organisations appearing to him to be representative of persons working in the prison service and with such other persons as he thinks fit.

(3) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Regulations under this section may—

(a) provide for determinations with respect to matters to which the regulations relate to be made wholly or partly by reference to such factors, and the opinion or recommendations of such persons, as may be specified or described in the regulations;

(b) authorise the matters considered and determined in pursuance of the regulations to include matters applicable to times and periods before they are considered or determined;

(c) make such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit; and

(d) make different provision for different cases.

[F195(5) For the purposes of this section, the prison service comprises all the individuals who:

[F196(a) hold any post, other than as chaplain or assistant chaplain, to which they have been appointed for the purposes of section 7 of the Prison Act 1952;

F197(aa)**]** . . . . . .

(b) hold any post, otherwise than as a medical officer, to which those individuals have been appointed for the purposes of section 3(1A) of the Prisons (Scotland) Act 1989.**]**

Textual Amendments

F195 S. 128(5) substituted (22.3.2005) by The Regulatory Reform (Prison Officers) (Industrial Action) Order 2005 (S.I. 2005/908), arts. 1, **3**

F196 S. 128(5)(a)(aa) substituted (1.11.2007) for s. 128(5)(a) by Offender Management Act 2007 (c. 21), **ss. 25(2)**, 41(1); S.I. 2007/3001, **art. 2(1)(f)**

F197 S. 128(5)(aa) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 5** (with arts. 28-31)

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Modifications etc. (not altering text)

C58 S. 128: transfer of certain functions (1.7.1999) by S.I. 1999/1750 arts. 1, 2 Sch. 1 (with art. 7); S.I. 1998/3178, **art. 2**

C59 S. 128 amended (1.7.1999) by S.I. 1999/1756 arts. 1, 2, Sch. para. 16 (with art. 8); 1998/3178, art. 2

[F198 128A Pay and related conditions: Northern Ireland

(1) The Department of Justice in Northern Ireland may by regulations provide for the establishment, maintenance and operation of procedures for the determination from time to time of—

(a) the rates of pay and allowances to be applied to the prison service; and

(b) such other terms and conditions of employment in that service as may appear to the Department of Justice to fall to be determined in association with the determination of rates of pay and allowances.

(2) Before making any regulations under this section the Department of Justice shall consult with such organisations appearing to it to be representative of persons working in the prison service and with such other persons as it thinks fit.

(3) The power to make regulations under this section shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4) Regulations made under this section shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(5) Regulations under this section may—

(a) provide for determinations with respect to matters to which the regulations relate to be made wholly or partly by reference to such factors, and the opinion or recommendations of such persons, as may be specified or described in the regulations;

(b) authorise the matters considered and determined in pursuance of the regulations to include matters applicable to times and periods before they are considered or determined;

(c) make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit; and

(d) make different provision for different cases.

(6) For the purposes of this section, the prison service comprises all the individuals who hold any post, other than as chaplain or assistant chaplain, to which they have been appointed for the purposes of section 2(2) of the Prison Act (Northern Ireland) 1953.**]**

Textual Amendments

F198 S. 128A inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 6** (with arts. 28-31)

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PART IX

MISCELLANEOUS AMENDMENTS: SCOTLAND

129 Transfer of persons detained by police and customs officers.

F199(1) . . . . . .

(4) In subsection (1) of section 48 of the M130Criminal Justice (Scotland) Act 1987 (detention of suspect by customs officer)—

(a) after the word "premises" there shall be inserted the words " and may thereafter for that purpose take him to any other place "; and

(b) for the word "there" there shall be substituted the words " at the customs office, or as the case may be the other premises or place. ".

(5) In subsection (5) of that section—

(a) after paragraph (a) there shall be inserted the following paragraph—

"(aa) any other place to which the person is, during the detention, thereafter taken;"; and

(b) in paragraph (f), for the words "departure from the customs office or other premises" there shall be substituted the words " release from detention ".

(6) In section 49(1) of that Act (intimation to solicitor and other person of detention under section 48)—

(a) for the words "at a customs office or other premises" there shall be substituted the words " and has been taken to a customs office or other premises or place "; and

(b) for the words "place where he is being detained" there shall be substituted the words " customs office or other premises or place ".

Textual Amendments

F199 S. 129(1)-(3) repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5** (with Sch. 3 para. 1)

Commencement Information

I8 S. 129 wholly in force; s. 129 not in force at Royal Assent, see s. 172(2); s. 129 in force at 3.2.1995 by S.I. 1995/127, art. 2(1), **Sch. 1** (with transitional provisions in Sch. 2)

Marginal Citations

M130 1987 c. 41.

130 Detention and release of children: Scotland.

(1) In section 7 of the M131Prisoners and Criminal Proceedings (Scotland) Act 1993 (children detained in solemn proceedings), after subsection (1) there shall be inserted—

"(1A) The Secretary of State may by order provide—

(a) that the reference to—

(i) four years, in paragraph (a) of subsection (1) above; or

(ii) four or more years, in paragraph (b) of that subsection,

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shall be construed as a reference to such other period as may be specified in the order;

(b) that the reference to—

(i) half, in the said paragraph (a); or

(ii) two thirds, in the said paragraph (b),

shall be construed as a reference to such other proportion of the period specified in the sentence as may be specified in the order.

(1B) An order under subsection (1A) above may make such transitional provision as appears to the Secretary of State necessary or expedient in connection with any provision made by the order.".

(2) In section 45(3) of that Act (procedure in respect of certain orders), for the words "7(6)" there shall be substituted " 7(1A) or (6) ".

(3) In Schedule 6 to that Act (transitional provisions and savings)—

(a) in paragraph 8, after the word "revoked" there shall be inserted " by virtue of paragraph 10 of this Schedule "; and

(b) after paragraph 9 there shall be added—

"10 Section 17 of this Act shall apply in respect of a release on licence under paragraph 4 of this Schedule as that section applies in respect of the release on licence, under Part I of this Act, of a long-term prisoner.".

F200(4) . . . . . .

Textual Amendments

F200 S. 130(4) repealed (30.9.1998) by 1998 c. 37, s. 120(2), **Sch. 10** (with Sch. 9); S.I. 1998/2327, **art. 2(3)**

Marginal Citations

M131 1993 c. 9.

131 Conditions in licence of released prisoner: requirement for Parole Board recommendations.

In section 12(3)(a) of the M132Prisoners and Criminal Proceedings (Scotland) Act 1993 (requirement of Parole Board recommendations for inclusion of conditions in licences of certain released prisoners), after the word "inclusion" there shall be inserted the words " or subsequent insertion, variation or cancellation ".

Marginal Citations

M132 1993 c. 9.

F201132 . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F201 S. 132 repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5** (with Sch. 3 para. 1)

133 Extension of categories of prisoner to whom Part I of Prisoners and Criminal Proceedings (Scotland) Act 1993 applies.

In section 10(4) of the [M133]Prisoners and Criminal Proceedings (Scotland) Act 1993 (interpretation of expression "transferred life prisoner")—

(a) in paragraph (a), after the word "Scotland" there shall be inserted the words " or a court-martial "; and

(b) in paragraph (b)—

(i) for the word "(whether" there shall be substituted— " , or in the case of a sentence imposed by a court martial in Scotland to a prison in Scotland (in either case whether ";

(ii) after sub-paragraph (ii) there shall be inserted—

"; or

(iii) rules made under section 122(1)(a) of the [M134]Army Act 1955 (imprisonment and detention rules); or

(iv) rules made under section 122(1)(a) of the [M135]Air Force Act 1955 (imprisonment and detention rules); or

(v) a determination made under section 81(3) of the [M136]Naval Discipline Act 1957 (place of imprisonment or detention),"; and

(iii) at the end there shall be added— " ; and in this subsection "prison" has the same meaning as in the 1989 Act. ".

Marginal Citations

M133 1993 c. 9.
M134 1955 c. 18.
M135 1955 c. 19.
M136 1957 c. 53.

134 Amendment of provisions continued in effect for certain prisoners by Prisoners and Criminal Proceedings (Scotland) Act 1993.

(1) In Schedule 6 to the [M137]Prisoners and Criminal Proceedings (Scotland) Act 1993 (transitional provisions and savings)—

(a) in paragraph 1—

(i) in the definition of "existing provisions", at the end there shall be added " except that an amendment or repeal effected by any enactment shall apply for the purposes of the existing provisions if expressly stated to do so "; and

(ii) in the definition of "new provisions", after the word "amended" there shall be added " by this Act "; and

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(b) in paragraph 2(1), for the words from "and to" to "Schedule" there shall be substituted— " , to the following provisions of this Schedule and to the exception in the definition of "existing provisions" in paragraph 1 above, ".

(2) Sections 18 (constitution and functions of Parole Board etc.), 22 (release on licence of persons serving determinate sentences), 28 (revocation of licences and conviction of prisoners on licence) and 42(3) (exercise of power to make rules etc.) of the [M138]Prisons (Scotland) Act 1989, being provisions which, notwithstanding their repeal by the [M139]Prisoners and Criminal Proceedings (Scotland) Act 1993, are "existing provisions" for the purposes of that Act of 1993, shall for those purposes be amended in accordance with the following subsections.

(3) In the said section 18, for subsections (3) and (4) there shall be substituted—

"(3A) The Secretary of State may by rules make provision with respect to the proceedings of the Board, including provision—

(a) authorising cases to be dealt with in whole or in part by a prescribed number of members of the Board in accordance with such procedure as may be prescribed;

(b) requiring cases to be dealt with at prescribed times; and

(c) as to what matters may be taken into account by the Board (or by such number) in dealing with a case.

(3B) The Secretary of State may give the Board directions as to the matters to be taken into account by it in discharging its functions under this Part of this Act; and in giving any such directions the Secretary of State shall in particular have regard to—

(a) the need to protect the public from serious harm from offenders; and

(b) the desirability of preventing the commission by offenders of further offences and of securing their rehabilitation.".

(4) [F202] . . . . . .

(5) In the said section 22, at the beginning of subsection (7) there shall be inserted the words " In a case where the Parole Board has recommended that a person be released on licence, and by virtue of subsection (1A) above such release is then mandatory, no licence conditions shall be included in the licence, or subsequently inserted, varied or cancelled in it, except in accordance with recommendations of the Board; and in any other case ".

(6) In the said section 42—

(a) in each of subsections (1) and (4), for the words "22(2)" there shall be substituted " 22(1A) or (2), 28(1A), "; and

(b) in subsection (3), for the word "(3)" there shall be substituted " (3A) ".

Textual Amendments

F202 S. 134(4) repealed (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89, **Sch. 5**; S.S.I. 2003/288, **art. 2**, Sch.

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

I9 S. 134 wholly in force at 1.6.1995; s. 134 not in force at Royal Assent see s. 172; s. 134 in force at 3.2.1995 for specified purposes only and 1.6.1995 otherwise by S.I. 1995/127, art. 2(1)(2)(3), **Sch. 1** (with savings in Sch. 2 para. 4)

Marginal Citations

M137 1993 c. 9.
M138 1989 c. 45.
M139 1993 c. 9.

135 Further amendment of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993: application of "new provisions".

In Schedule 6 to the [M140]Prisoners and Criminal Proceedings (Scotland) Act 1993 (transitional provisions and savings), after paragraph 6 there shall be inserted the following paragraphs—

"6A (1) This paragraph applies where a prisoner sentenced before the relevant date to a sentence of imprisonment for life for an offence the sentence for which is not fixed by law has been (whether before, on or after that date) released on licence under the 1989 Act.

(2) Without prejudice to section 22(6) of the 1989 Act, in a case to which this paragraph applies, the new provisions shall apply as if the prisoner were a discretionary life prisoner, within the meaning of section 2 of this Act, whose licence has been granted under subsection (4) of that section of this Act on his having served the relevant part of his sentence.

6B (1) This paragraph applies where—

(a) a prisoner was, at the relevant date, serving a sentence or sentences of imprisonment, on conviction of an offence, passed before that date and that sentence was for a term of, or as the case may be those sentences fall to be treated as for a single term of, two or more years; and

(b) on or after that date he is, or has been, sentenced to a further term or terms of imprisonment, on conviction of an offence, to be served consecutively to, or concurrently with, the sentence or sentences mentioned in head (a) above.

(2) In a case to which this paragraph applies—

(a) the sentence or sentences mentioned in head (b) of sub-paragraph (1) above shall be treated as a single term with the sentences mentioned in head (a) of that sub-paragraph and that single term as imposed on or after the relevant date (so however that nothing in the foregoing provisions of this head shall affect the application of sections 39(7) (which makes provision as respects the award of additional days for breaches of discipline) and 24 (which makes provision as respects remission for good conduct) of the 1989 Act); and

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(b) the new provisions shall apply accordingly, except that—

(i) where the prisoner is a long-term prisoner by virtue only of the aggregation provided for in head (a) of this sub-paragraph, he shall be released unconditionally on the same day as he would have been but for that aggregation;

(ii) where, notwithstanding the aggregation so provided for, the prisoner remains a short-term prisoner, subsection (1) of section 1 of this Act shall in its application be construed as subject to the qualification that the prisoner shall be released no earlier than he would have been but for that aggregation;

(iii) that section shall in its application be construed as if for subsection (3) there were substituted—

(“) Without prejudice to subsection (1) above and to sub-paragraph (2)(b)(i) of paragraph 6B of Schedule 6 to this Act, after a prisoner to whom that paragraph applies has either served one-third of the sentence, or as the case may be sentences, mentioned in sub-paragraph (1)(a) of that paragraph, or (if it results in a later date of release) has served twelve months of that sentence or those sentences, the Secretary of State may, if recommended to do so by the Parole Board under this section, release him on licence; and where such a prisoner has been released on licence under section 22 of the 1989 Act, that licence shall be deemed to have been granted by virtue of this subsection.”;

(iv) section 11(1) shall in its application be construed as if the sentence referred to were the further term or terms mentioned in head (b) of sub-paragraph (1) above; and

(v) section 16 shall in its application be construed as if the original sentence (within the meaning of that section) were the further term or terms so mentioned.”.

Marginal Citations
M140 1993 c. 9.

PART X

CROSS-BORDER ENFORCEMENT

136 Execution of warrants.

(1) A warrant issued in England, Wales or Northern Ireland for the arrest of a person charged with an offence may (without any endorsement) be executed in Scotland by any constable of any police force of the country of issue or of the country of execution **[**[F203]or by a constable appointed under section 53 of the British Transport Commission Act 1949**]** as well as by any other persons within the directions in the warrant.

(2) A warrant issued in—

(a) Scotland; or

(b) Northern Ireland,

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for the arrest of a person charged with an offence may (without any endorsement) be executed in England or Wales by any constable of any police force of the country of issue or of the country of execution **[**or by a constable appointed under section 53 of the British Transport Commission Act 1949**]** as well as by any other persons within the directions in the warrant.

(3) A warrant issued in—

(a) England or Wales; or

(b) Scotland,

for the arrest of a person charged with an offence may (without any endorsement) be executed in Northern Ireland by any constable of any police force of the country of issue or of the country of execution as well as by any other persons within the directions in the warrant.

(4) A person arrested in pursuance of a warrant shall be taken, as soon as reasonably practicable, to any place to which he is committed by, or may be conveyed under, the warrant.

(5) A constable executing a warrant—

(a) under subsection (1), (2)(b) or (3)(a) of this section may use reasonable force and shall have the powers of search conferred by section 139;

(b) under subsection (2)(a) or (3)(b) of this section shall have the same powers and duties, and the person arrested the same rights, as they would have had if execution had been in Scotland by a constable of a police force in Scotland.

(6) Any other person within the directions in a warrant executing that warrant under this section shall have the same powers and duties, and the person arrested the same rights, as they would have had if execution had been in the country of issue by the person within those directions.

(7) This section applies as respects—

(a) a warrant of commitment and a warrant to arrest a witness issued by a judicial authority in England, Wales or Northern Ireland as it applies to a warrant for arrest; and

(b) a warrant for committal, a warrant to imprison (or to apprehend and imprison) and a warrant to arrest a witness issued by a judicial authority in Scotland as it applies to a warrant for arrest.

[[F204](7A) This section applies as respects a warrant issued under paragraph 3(2) of Schedule 1 to **[**[F205] the Powers of Criminal Courts (Sentencing) Act 2000 **]** (warrant for arrest of offender referred back to court by youth offender panel) **[**[F206] or under Schedule 2 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation orders: breach etc.) **]** as it applies to a warrant issued in England or Wales for the arrest of a person charged with an offence. **]**

(8) In this section "judicial authority" means any justice of the peace or the judge of any court exercising jurisdiction in criminal proceedings; and any reference to a part of the United Kingdom in which a warrant may be executed includes a reference to the adjacent sea and other waters within the seaward limits of the territorial sea.

[[F207](9) Powers under this section and sections 137 to 139 may be exercised by an officer of Revenue and Customs in accordance with section 87 of the Finance Act 2007.**]**

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Textual Amendments

F203 Words in s. 136(1)(2) inserted (14.12.2001) by 2001 c. 24, ss. 101, 127, **Sch 7 para. 17**

F204 S. 136(7A) inserted (26.6.2000) by 1999 c. 23, s. 67, **Sch. 4**, paras. 21, 23 (with Sch. 7 para. 5(2)); S.I. 2000/1587, **art. 2(b)**

F205 Words in s. 136(7A) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 9 para. 161**

F206 Words in s. 136(7A) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 42** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, art. 2(p)(v)

F207 S. 136(9) inserted (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(6)**

Modifications etc. (not altering text)

C60 S. 136 applied (with modifications) (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(2)-(5)**

137 Cross-border powers of arrest etc.

(1) If the **[**F208condition applicable to this subsection is**]** satisfied, any constable of a police force in England and Wales who has reasonable grounds for suspecting that an offence has been committed or attempted in England or Wales and that the suspected person is in Scotland or in Northern Ireland may arrest without a warrant the suspected person wherever he is in Scotland or in Northern Ireland.

(2) If the condition applicable to this subsection is satisfied, any constable of a police force in Scotland who has reasonable grounds for suspecting that an offence has been committed or attempted in Scotland and that the suspected person is in England or Wales or in Northern Ireland may, as respects the suspected person, wherever he is in England or Wales or in Northern Ireland, exercise the same powers of arrest or detention as it would be competent for him to exercise were the person in Scotland.

[F209(2A) The powers conferred by subsections (1) and (2) may be exercised in England and Wales and Scotland by a constable appointed under section 53 of the British Transport Commission Act 1949.**]**

(3) If the conditions applicable to this subsection are satisfied, any constable of a police force in Northern Ireland who has reasonable grounds for suspecting that an offence has been committed or attempted in Northern Ireland and that the suspected person is in England or Wales or in Scotland may arrest without a warrant the suspected person wherever he is in England or Wales or in Scotland.

[F210(4) The condition applicable to subsection (1) above is that it appears to the constable that it would have been lawful for him to have exercised the powers had the suspected person been in England and Wales.**]**

(5) The condition applicable to subsection (2) above is that it appears to the constable that it would have been lawful for him to have exercised the powers had the suspected person been in Scotland.

(6) The conditions applicable to subsection (3) above are—

(a) that the suspected offence is an arrestable offence; or

(b) that, in the case of any other offence, it appears to the constable that service of a summons is impracticable or inappropriate for any of the reasons specified in subsection (3) of section 138.

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(7) It shall be the duty of a constable who has arrested or, as the case may be detained, a person under this section—

(a) if he arrested him in Scotland, to take the person arrested either to the nearest convenient designated police station in England or in Northern Ireland or to a designated police station in a police area in England and Wales or in Northern Ireland in which the offence is being investigated;

(b) if he arrested him in England or Wales, to take the person arrested to the nearest convenient police station in Scotland or to a police station within a sheriffdom in which the offence is being investigated or to the nearest convenient designated police station in Northern Ireland or to a designated police station in Northern Ireland in which the offence is being investigated;

(c) if he detained him in England or Wales, to take the person detained to either such police station in Scotland as is mentioned in paragraph (b) above, or to the nearest convenient designated police station in England or Wales;

(d) if he arrested him in Northern Ireland, to take the person arrested either to the nearest convenient designated police station in England or Wales or to a designated police station in a police area in England and Wales in which the offence is being investigated or to the nearest convenient police station in Scotland or to a police station within a sheriffdom in which the offence is being investigated;

(e) if he detained him in Northern Ireland, to take the person detained to either such police station in Scotland as is mentioned in paragraph (b) above, or to the nearest convenient designated police station in Northern Ireland;

and to do so as soon as reasonably practicable.

(8) A constable—

(a) arresting a person under subsection (1) or (3) above, may use reasonable force and shall have the powers of search conferred by section 139;

(b) arresting a person under subsection (2) above shall have the same powers and duties, and the person arrested the same rights, as they would have had if the arrest had been in Scotland; and

(c) detaining a person under subsection (2) above shall act in accordance with the provisions applied by subsection (2) (as modified by subsection (6)) of section 138.

(9) In this section—

[[F211]"arrestable offence" has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 ("the 1989 Order");

"designated police station" has the same meaning as in the Police and Criminal Evidence Act 1984 or, in relation to Northern Ireland, as in the 1989 Order; and**]**

"constable of a police force", in relation to Northern Ireland, means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

(10) This section shall not prejudice any power of arrest conferred apart from this section.

Textual Amendments

F208 Words in s. 137(1) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 para. 47(2)(a)**; S.I. 2005/3495, **art. 2(1)(m)** (subject to art. 2)

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F209 S. 137(2A) inserted (14.12.2001) by 2001 c. 24, ss. 101, 127(2)(f), **Sch. 7 para. 18**

F210 S. 137(4) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 para. 47(2)(b)**; S.I. 2005/3495, **art. 2(1)(m)** (subject to art. 2)

F211 S. 137(9): definitions of "arrestable offence" and "designated police station" substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 para. 47(2)(c)**; S.I. 2005/3495, **art. 2(1)(m)** (subject to art. 2)

Modifications etc. (not altering text)

C61 S. 137 applied (with modifications) (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(2)-(5)**

138 Powers of arrest etc.: supplementary provisions.

(1) The following provisions have effect to supplement section 137 ("the principal section").

(2) Where a person is detained under subsection (2) of the principal section, **[**[F212]subsections (2) to (8) of section 14 (detention and questioning at police station), subsections (1), (2) and (4) to (6) of section 15 (rights of person arrested or detained) and section 18 (prints, samples etc. in criminal investigations) of the Criminal Procedure (Scotland) Act 1995**]**shall apply to detention under that subsection of the principal section as they apply to detention under subsection (1) of the said section 2, but with the modifications mentioned in subsection (6) below.

(3) The reasons referred to in **[**[F213]subsection (6)(b)**]** of the principal section are that—

(a) the name of the suspected person is unknown to, and cannot readily be ascertained by, the constable;

(b) the constable has reasonable grounds for doubting whether a name furnished by the suspected person as his name is his real name;

(c) either—

(i) the suspected person has failed to furnish a satisfactory address for service; or

(ii) the constable has reasonable grounds for doubting whether an address furnished by the suspected person is a satisfactory address for service;

(d) the constable has reasonable grounds for believing that arrest is necessary to prevent the suspected person—

(i) causing physical injury to himself or any other person;

(ii) suffering physical injury;

(iii) causing loss of or damage to property;

(iv) committing an offence against public decency; or

(v) causing an unlawful obstruction of a highway or road; or

(e) the constable has reasonable grounds for believing that arrest is necessary to protect a child or other vulnerable person from the suspected person.

(4) For the purposes of subsection (3) above an address is a satisfactory address for service if it appears to the constable—

(a) that the suspected person will be at it for a sufficiently long period for it to be possible to serve him with process; or

(b) that some other person specified by the suspected person will accept service of process for the suspected person at it.

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(5) Nothing in subsection (3)(d) above authorises the arrest of a person under sub-paragraph (iv) of that paragraph except where members of the public going about their normal business cannot reasonably be expected to avoid the person to be arrested.

(6) The following are the modifications of **[**F214sections 14 and 15 of the said Act of 1995**]** which are referred to in subsection (2) above—

(a) **[**F215in section 14**]**—

(i) in subsection (2), the reference to detention being terminated not more than six hours after it begins shall be construed as a reference to its being terminated not more than four hours after the person's arrival at the police station to which he is taken under subsection (7)(c) of the principal section; and

(ii) **[**F215in subsections (6) and (9)**]**, references to "other premises" shall be disregarded; and

(b) **[**F216in subsections (1) and (2) of section 15**]** , references to "other premises" shall be disregarded.

Textual Amendments

F212 Words in s. 138(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(6)(a)** (with Sch. 3)

F213 Words in s. 138(3) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 para. 47(3)**; S.I. 2005/3495, **art. 2(1)(m)** (subject to art. 2)

F214 Words in s. 138(6) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(6)(b)(i)** (with Sch. 3)

F215 Words in s. 138(6)(a) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(6)(b)(ii)** (with Sch. 3)

F216 Words in s. 138(6)(b) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 93(6)(b)(iii)** (with Sch. 3)

Modifications etc. (not altering text)

C62 S. 138 applied (with modifications) (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(2)-(5)**

139 Search powers available on arrests under sections 136 and 137.

(1) The following powers are available to a constable in relation to a person arrested under section 136(1), (2)(b) or (3)(a) or 137(1) or (3).

(2) A constable to whom this section applies may search the person if the constable has reasonable grounds for believing that the person may present a danger to himself or others.

(3) Subject to subsections (4) to (6) below, a constable to whom this section applies may—

(a) search the person for anything—

(i) which he might use to assist him to escape from lawful custody; or

(ii) which might be evidence relating to an offence; and

(b) enter and search any premises in which the person was when, or was immediately before, he was arrested for evidence relating to the offence for which he was arrested.

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(4) The power to search conferred by subsection (3) above is only a power to search to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence.

(5) The powers conferred by this section to search a person are not to be construed as authorising a constable to require a person to remove any of his clothing in public other than an outer coat, jacket, headgear, gloves or footwear but they do authorise a search of a person's mouth.

(6) A constable may not search a person in the exercise of the power conferred by subsection (3)(a) above unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything for which a search is permitted under that paragraph.

(7) A constable may not search premises in the exercise of the power conferred by subsection (3)(b) above unless he has reasonable grounds for believing that there is evidence for which a search is permitted under that paragraph.

(8) In so far as the power of search conferred by subsection (3)(b) above relates to premises consisting of two or more separate dwellings, it is limited to a power to search—

(a) any dwelling in which the arrest took place or in which the person arrested was immediately before his arrest; and

(b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.

(9) A constable searching a person in the exercise of the power conferred by subsection (2) above may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.

(10) A constable searching a person in the exercise of the power conferred by subsection (3)(a) above may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing—

(a) that he might use it to assist him to escape from lawful custody; or

(b) that it is evidence of an offence, or has been obtained in consequence of the commission of an offence.

(11) Nothing in this section shall be taken to affect the power conferred by **[**[F217]section 43 of the Terrorism Act 2000**]**

(12) In this section—

"item subject to legal privilege" has the meaning given to it—

(a) as respects anything in the possession of a person searched in England and Wales, by section 10 of the [M141]Police and Criminal Evidence Act 1984;

(b) as respects anything in the possession of a person searched in Scotland, by **[**[F218]section 412 of the Proceeds of Crime Act 2002**]**;

(c) as respects anything in the possession of a person searched in Northern Ireland, by Article 12 of the [M142]Police and Criminal Evidence (Northern Ireland) Order 1989;

"premises" includes any place and, in particular, includes—

(a) any vehicle, vessel, aircraft or hovercraft;

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(b) any offshore installation; and

(c) any tent or movable structure; and

"offshore installation" has the meaning given to it by section 1 of the [M143]Mineral Workings (Offshore Installations) Act 1971.

Textual Amendments

F217 Words in s. 139(11) substituted (19.2.2001) by 2000 c. 11, ss. 125, 128, **Sch. 15 para. 9**: S.I. 2001/421, **art. 2(a)**

F218 S. 139(12): words in para. (b) in definition of "items subject to legal privilege" substituted (*prosp.*) by 2002 c. 29, ss. 456, 458(1), **Sch. 11 para. 24**

Modifications etc. (not altering text)

C63 S. 139 applied (with modifications) (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(2)-(5)**

C64 S. 139(10): power of seizure extended (1.4.2003) by 2001 c. 16, ss. 51-54, 68, 138(2), Sch. 1 Pt. 2 para. 81; S.I. 2003/708, **art. 2(j)**

Marginal Citations

M141 1984 c. 60.

M142 S.I. 1989/1341 (N.I. 12).

M143 1971 c. 61.

140 Reciprocal powers of arrest.

(1) Where a constable of a police force in England and Wales would, in relation to an offence, have power to arrest a person in England or Wales under **[**[F219]section 24**]** of the [M144]Police and Criminal Evidence Act 1984 (arrestable offences and non-arrestable offences in certain circumstances) a constable of a police force in Scotland or in Northern Ireland shall have the like power of arrest in England and Wales.

(2) Where a constable of a police force in Scotland or in Northern Ireland arrests a person in England or Wales by virtue of subsection (1) above—

(a) the constable shall be subject to requirements to inform the arrested person that he is under arrest and of the grounds for it corresponding to the requirements imposed by section 28 of that Act;

(b) the constable shall be subject to a requirement to take the arrested person to a police station corresponding to the requirement imposed by section 30 of that Act and so also as respects the other related requirements of that section; and

(c) the constable shall have powers to search the arrested person corresponding to the powers conferred by section 32 of that Act.

(3) Where a constable of a police force in Scotland would, in relation to an offence, have power to arrest a person in Scotland, a constable of a police force in England and Wales or in Northern Ireland shall have the like power of arrest in Scotland.

(4) Where a constable of a police force in England or Wales or in Northern Ireland arrests a person in Scotland by virtue of subsection (3) above, the arrested person shall have the same rights and the constable the same powers and duties as they would have were the constable a constable of a police force in Scotland.

(5) Where a constable of a police force in Northern Ireland would, in relation to an offence, have power to arrest a person in Northern Ireland under **[**[F220]Article 26**]** of the

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[M145]Police and Criminal Evidence (Northern Ireland) Order 1989 (arrestable offences and non-arrestable offences in certain circumstances) a constable of a police force in England and Wales or Scotland shall have the like power of arrest in Northern Ireland.

(6) Where a constable of a police force in England and Wales or in Scotland arrests a person in Northern Ireland by virtue of subsection (5) above—

(a) the constable shall be subject to requirements to inform the arrested person that he is under arrest and of the grounds for it corresponding to the requirements imposed by Article 30 of that Order;

(b) the constable shall be subject to a requirement to take the arrested person to a police station corresponding to the requirement imposed by Article 32 of that Order and so as respects the other related requirements of that Article; and

(c) the constable shall have powers to search the arrested person corresponding to the powers conferred by Article 34 of that Order.

[[F221](6A) The references in subsections (1) and (2) to a constable of a police force in Scotland, and the references in subsections (3) and (4) to a constable of a police force in England and Wales, include a constable appointed under section 53 of the British Transport Commission Act 1949 (c. xxix).**]**

(7) In this section "constable of a police force", in relation to Northern Ireland, means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

Textual Amendments

F219 Words in s. 140(1) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 178, **Sch. 7 para. 47(4)**; S.I. 2005/3495, **art. 2(1)(m)** (subject to art. 2)

F220 Words in s. 140(5) substituted (N.I.) (1.3.2007) by The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2)-(4), 15, **Sch. 1 para. 28(3)**

F221 S. 140(6A) inserted (14.12.2001) by 2001 c. 24, ss. 101, 127(2)(f), **Sch. 7 para. 19**

Marginal Citations

M144 1984 c. 60.

M145 S.I. 1989/1341 (N.I. 12).

[F222]141 . . . . . .

Textual Amendments

F222 S. 141 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**

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PART XI

SEXUAL OFFENCES

Rape

142 Rape of women and men.

F223 . . . . . .

Textual Amendments

F223 S. 142 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 142, Sch. 6 para. 32(3), **Sch. 7**; S.I. 2004/874, **art. 2**

Male rape and buggery

143 Male rape and buggery.

F224 . . . . . .

Textual Amendments

F224 S. 143 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 142, Sch. 6 para. 32(3), **Sch. 7**; S.I. 2004/874, **art. 2**

Revised penalties for certain sexual offences

144 Revised penalties for buggery and indecency between men.

F225 . . . . . .

Textual Amendments

F225 S. 144 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 142, Sch. 6 para. 32(3), **Sch. 7**; S.I. 2004/874, **art. 2**

Homosexuality

F226145 . . . . . .

Textual Amendments

F226 S. 145 repealed and superseded (8.1.2001) by 2000 c. 44, **s. 1(5)**; S.I. 2000/3303, **art. 2(1)**; S.S.I. 2000/452, **art. 2(a)**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

146 Extension of Sexual Offences Act 1967 to the armed forces and merchant navy.

(1) Section 1(5) of the Sexual Offences Act 1967 (homosexual acts in the armed forces) is repealed.

(2) In section 80 of the [M146]Criminal Justice (Scotland) Act 1980—

(a) subsection (5) (homosexual acts in the armed forces) shall cease to have effect;

(b) in subsection (7)—

(i) after paragraph (b) there shall be inserted the word " or "; and

(ii) paragraph (d) (homosexual acts on merchant ships) and the word "; or" immediately preceding that paragraph shall cease to have effect; and

(c) subsection (8) (interpretation) shall cease to have effect.

(3) Section 2 of the [M147]Sexual Offences Act 1967 (homosexual acts on merchant ships) is repealed.

(4) Nothing contained in this section shall prevent a homosexual act (with or without other acts or circumstances) from constituting a ground for discharging a member of Her Majesty's armed forces from the service or dismissing a member of the crew of a United Kingdom merchant ship from his ship [F227]...[M148]...[M149][M150]

Extent Information

E21 S. 146(1)(3) extends to England and Wales; s. 146(2) extends to Scotland only; s. 146(4) extends to England and Wales and Scotland see s. 172(7)(8)(13)

Textual Amendments

F227 Words in s. 146(4) repealed (28.3.2009 for specified purposes) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

Marginal Citations

M146 1980 c. 62.
M147 1967 c. 60.
M148 1955 c. 18.
M149 1955 c. 19.
M150 1957 c. 53.

147 Homosexuality on merchant ships and in the armed forces: Northern Ireland.

(1) In the [M151]Homosexual Offences (Northern Ireland) Order 1982, the following are revoked—

(a) in article 3(1) (homosexual acts in private), the words "and Article 5 (merchant seamen)"; and

(b) article 5 (homosexual acts on merchant ships).

(2) Article 3(4) of the Homosexual Offences (Northern Ireland) Order 1982 (homosexual acts in the armed forces) is revoked.

(3) Nothing in this section shall prevent a homosexual act (with or without other acts or circumstances) from constituting a ground for discharging a member of Her Majesty's armed forces from the service or dismissing a member of the crew of a United Kingdom merchant ship from his ship [F228]...

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F228 Words in s. 147(3) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Marginal Citations

M151 S.I. 1982/1536 (N.I. 19).

148 Amendment of law relating to homosexual acts in Scotland.

In section 80(6) of the [M152]Criminal Justice (Scotland) Act 1980 (which defines "homosexual act" for the purpose of section 80), after "gross indecency" there is inserted " or shameless indecency ".

Marginal Citations

M152 1980 c. 62.

PART XII

MISCELLANEOUS AND GENERAL

The Parole Board

149 Incorporation of the Parole Board.

In section 32 of the [M153]Criminal Justice Act 1991 (which provides the constitution and basic functions of the Parole Board), for subsection (1), there shall be substituted the following subsection—

"(1) The Parole Board shall be, by that name, a body corporate and as such shall be constituted in accordance with, and have the functions conferred by, this Part.".

Marginal Citations

M153 1991 c. 53.

150 Powers to recall prisoners released on licence.

In section 50 of the Criminal Justice Act 1991 (power by order to transfer certain functions to the Parole Board) subsection (4) shall cease to have effect and, in subsection (1), for the words "(2) to (4)" there shall be substituted the words " (2) or (3) ".

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Prisons: powers in relation to prisoners, visitors and others

151 Power to test prisoners for drugs.

(1) After section 16 of the [M154]Prison Act 1952 there shall be inserted the following section—

"**16A Testing prisoners for drugs.**

(1) If an authorisation is in force for the prison, any prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined in the prison to provide a sample of urine for the purpose of ascertaining whether he has any drug in his body.

(2) If the authorisation so provides, the power conferred by subsection (1) above shall include power to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of urine.

(3) In this section—

"authorisation" means an authorisation by the governor;

"drug" means any drug which is a controlled drug for the purposes of the [M155]Misuse of Drugs Act 1971;

"intimate sample" has the same meaning as in Part V of the [M156]Police and Criminal Evidence Act 1984;

"prison officer" includes a prisoner custody officer within the meaning of Part IV of the Criminal Justice Act 1991; and

"prison rules" means rules under section 47 of this Act.".

(2) After section 41A of the [M157]Prisons (Scotland) Act 1989 there shall be inserted the following section—

"**41B Testing prisoners for drugs.**

(1) If an authorisation is in force for the prison, any officer of the prison may, at the prison, in accordance with rules under section 39 of this Act, require any prisoner who is confined in the prison to provide a sample of urine for the purpose of ascertaining whether he has any drug in his body.

(2) If the authorisation so provides, the power conferred by subsection (1) above shall include power to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of urine.

(3) In this section—

"authorisation" means an authorisation by the governor;

"drug" means any drug which is a controlled drug for the purposes of the [M158]Misuse of Drugs Act 1971; and

"intimate sample" means a sample of blood, semen or any other tissue fluid, saliva or pubic hair, or a swab taken from a person's body orifice.".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Extent Information

E22 S. 151(1) extends to England and Wales only; s. 151(2) extends to Scotland only see s. 172(7)(13)

Marginal Citations

M154 1952 c. 52.
M155 1971 c. 38.
M156 1984 c. 60.
M157 1989 c. 45.
M158 1971 c. 38.

152 Powers of search by authorised employees in prisons.

(1) In the [M159]Prison Act 1952, after section 8, there shall be inserted the following section—

"**8A Powers of search by authorised employees.**

(1) An authorised employee at a prison shall have the power to search any prisoner for the purpose of ascertaining whether he has any unauthorised property on his person.

(2) An authorised employee searching a prisoner by virtue of this section—
(a) shall not be entitled to require a prisoner to remove any of his clothing other than an outer coat, jacket, headgear, gloves and footwear;
(b) may use reasonable force where necessary; and
(c) may seize and detain any unauthorised property found on the prisoner in the course of the search.

(3) In this section "authorised employee" means an employee of a description for the time being authorised by the governor to exercise the powers conferred by this section.

(4) The governor of a prison shall take such steps as he considers appropriate to notify to prisoners the descriptions of persons who are for the time being authorised to exercise the powers conferred by this section.

(5) In this section "unauthorised property", in relation to a prisoner, means property which the prisoner is not authorised by prison rules or by the governor to have in his possession or, as the case may be, in his possession in a particular part of the prison.".

(2) In the [M160]Prisons (Scotland) Act 1989, after section 41, there shall be inserted the following section—

"**41A Powers of search by authorised employees.**

(1) An authorised employee at a prison shall have the power to search any prisoner for the purpose of ascertaining whether he has any unauthorised property on his person.

(2) An authorised employee searching a prisoner by virtue of this section—

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(a) shall not be entitled to require a prisoner to remove any of his clothing other than an outer coat, jacket, headgear, gloves and footwear;

(b) may use reasonable force where necessary; and

(c) may seize and detain any unauthorised property found on the prisoner in the course of the search.

(3) In this section "authorised employee" means an employee of a description for the time being authorised by the governor to exercise the powers conferred by this section.

(4) The governor of a prison shall take such steps as he considers appropriate to notify to prisoners the descriptions of employees who are for the time being authorised employees.

(5) In this section—

"employee" means an employee (not being an officer of a prison) appointed under section 2(1) of this Act; and

"unauthorised property", in relation to a prisoner, means property which the prisoner is not authorised by rules under section 39 of this Act or by the governor to have in his possession or, as the case may be, in his possession in a particular part of the prison.".

Extent Information

E23 S. 152(1) extends to England and Wales only; s. 152(2) extends to Scotland only see s. 172(7)(13)

Marginal Citations

M159 1952 c. 52.

M160 1989 c. 45.

153 Prohibited articles in Scottish prisons.

(1) Section 41 of the Prisons (Scotland) Act 1989 (unlawful introduction of tobacco, etc. into prison) shall be amended as follows.

(2) In subsection (1), for the words from the beginning to "shall be guilty" there shall be substituted—

"(1) Any person who without reasonable excuse brings or introduces, or attempts by any means to bring or introduce, into a prison—

(a) any drug;

(b) any firearm or ammunition;

(c) any offensive weapon;

(d) any article to which section 1 of the [M161]Carrying of Knives etc. (Scotland) Act 1993 applies; or

(e) without prejudice to paragraphs (a) to (d) above, any article which is a prohibited article within the meaning of rules under section 39 of this Act,

shall be guilty".

(3) After subsection (2) there shall be inserted the following subsections—

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"(2A) Where an officer of a prison has reasonable grounds for suspecting that a person who is in or is seeking to enter a prison has in his possession any article mentioned in paragraphs (a) to (e) of subsection (1) above he shall, without prejudice to any other power of search under this Act, have power to search that person and any article in his possession and to seize and detain any article mentioned in those paragraphs found in the course of the search.

(2B) The power conferred by subsection (2A) above—

(a) shall be exercised in accordance with rules under section 39 of this Act;

(b) shall not be construed as authorising the physical examination of a person's body orifices;

(c) so far as relating to any article mentioned in paragraph (c), (d) or (e) of subsection (1) above (and not falling within paragraph (a) or (b) of that subsection), shall not be construed as authorising an officer of a prison to require a person to remove any of his clothing other than an outer coat, jacket, headgear, gloves and footwear; and

(d) shall include power to use reasonable force where necessary.".

(4) For subsection (3) there shall be substituted the following subsections—

"(3) Where an officer of a prison has reasonable grounds for suspecting that any person has committed or is committing an offence under subsection (1) above he may, for the purpose of facilitating investigation by a constable into the offence, detain that person in any place in the prison in question and may, where necessary, use reasonable force in doing so.

(4) Detention under subsection (3) above shall be terminated not more than six hours after it begins or (if earlier)—

(a) when the person is detained in pursuance of any other enactment or subordinate instrument;

(b) when the person is arrested by a constable; or

(c) where the governor of the prison or a constable investigating the offence concludes that there are no such grounds as are mentioned in subsection (3) above or the officer of the prison concludes that there are no longer such grounds,

and the person detained shall be informed immediately upon the termination of his detention that his detention has been terminated.

(5) Where a person has been released at the termination of a period of detention under subsection (3) above he shall not thereafter be detained under that subsection on the same grounds or on any grounds arising out of the same circumstances.

(6) At the time when an officer of a prison detains a person under subsection (3) above he shall inform the person of his suspicion, of the suspected offence and of the reason for the detention; and there shall be recorded—

(a) the place where and the time when the detention begins;

(b) the suspected offence;

(c) the time when a constable or an officer of the police authority is informed of the suspected offence and the detention;

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(d) the time when the person is informed of his rights in terms of subsection (7) below and the identity of the officer of the prison so informing him;

(e) where the person requests such intimation as is specified in subsection (7) below to be sent, the time when such request is—

(i) made; and

(ii) complied with; and

(f) the time when, in accordance with subsection (4) above, the person's detention terminates.

(7) A person who is being detained under subsection (3) above, other than a person in respect of whose detention subsection (8) below applies, shall be entitled to have intimation of his detention and of the place where he is being detained sent without delay to a solicitor and to one other person reasonably named by him and shall be informed of that entitlement when his detention begins.

(8) Where a person who is being detained under subsection (3) above appears to the officer of the prison to be under 16 years of age, the officer of the prison shall send without delay to the person's parent, if known, intimation of the person's detention and of the place where he is being detained; and the parent—

(a) in a case where there is reasonable cause to suspect that he has been involved in the alleged offence in respect of which the person has been detained, may; and

(b) in any other case, shall,

be permitted access to the person.

(9) The nature and extent of any access permitted under subsection (8) above shall be subject to any restriction essential for the furtherance of the investigation or the well-being of the person.

(10) In this section—

"drug" means any drug which is a controlled drug for the purposes of the [M162]Misuse of Drugs Act 1971;

"firearm" and "ammunition" have the same meanings as in the [M163]Firearms Act 1968;

"offensive weapon" has the same meaning as in the [M164]Prevention of Crime Act 1953; and

"parent" includes a guardian and any person who has actual custody of a person under 16 years of age.".

Marginal Citations

M161 1993 c. 13.
M162 1971 c. 38.
M163 1968 c. 27.
M164 1953 c. 14.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Harassment, alarm or distress

154 Offence of causing intentional harassment, alarm or distress.

In Part I of the [M165]Public Order Act 1986 (offences relating to public order), after section 4, there shall be inserted the following section—

"**4A Intentional harassment, alarm or distress.**

(1) A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he—

(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or

(b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,

thereby causing that or another person harassment, alarm or distress.

(2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is displayed, by a person inside a dwelling and the person who is harassed, alarmed or distressed is also inside that or another dwelling.

(3) It is a defence for the accused to prove—

(a) that he was inside a dwelling and had no reason to believe that the words or behaviour used, or the writing, sign or other visible representation displayed, would be heard or seen by a person outside that or any other dwelling, or

(b) that his conduct was reasonable.

(4) A constable may arrest without warrant anyone he reasonably suspects is committing an offence under this section.

(5) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or both.".

Marginal Citations

M165 1986 c. 64.

Offence of racially inflammatory publication etc. to be arrestable

155 Offence of racially inflammatory publication etc. to be arrestable.

F229 . . . . . .

Textual Amendments

F229 S. 155 repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Prohibition on use of cells from embryos or foetuses

156 Prohibition on use of cells from embryos or foetuses.

(1) The [M166]Human Fertilisation and Embryology Act 1990 shall be amended as follows.

(2) After section 3 there shall be inserted the following section—

"**3A Prohibition in connection with germ cells.**

(1) No person shall, for the purpose of providing fertility services for any woman, use female germ cells taken or derived from an embryo or a foetus or use embryos created by using such cells.

(2) In this section—

"female germ cells" means cells of the female germ line and includes such cells at any stage of maturity and accordingly includes eggs; and

"fertility services" means medical, surgical or obstetric services provided for the purpose of assisting women to carry children.".

(3) In section 41(1)(a) (offences under the Act) after the words "section 3(2)" there shall be inserted " , 3A ".

Marginal Citations
M166 1990 c. 37.

Increase in certain penalties

157 Increase in penalties for certain offences.

(1) The enactments specified in column 2 of Part I of Schedule 8 to this Act which relate to the maximum fines for the offences mentioned (and broadly described) in column 1 of that Part of that Schedule shall have effect as if the maximum fine that may be imposed on summary conviction of any offence so mentioned were a fine not exceeding the amount specified in column 4 of that Part of that Schedule instead of a fine of an amount specified in column 3 of that Part of that Schedule.

(2) For the amount of the maximum fine specified in column 3 of Part II of Schedule 8 to this Act that may be imposed under the enactments specified in column 2 of that Part of that Schedule on summary conviction of the offences mentioned (and broadly described) in column 1 of that Part of that Schedule there shall be substituted the amount specified in column 4 of that Part of that Schedule.

(3) For the maximum term of imprisonment specified in column 3 of Part III of Schedule 8 to this Act that may be imposed under the enactments specified in column 2 of that Part of that Schedule on conviction on indictment, or on conviction on indictment or summary conviction, of the offences mentioned (and broadly described) in column 1 of that Part of that Schedule there shall be substituted the maximum term of imprisonment specified in column 4 of that Part of that Schedule.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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(4) Any reference in column 2 of Part II of Schedule 8 to this Act to a numbered column of Schedule 4 to the [M167]Misuse of Drugs Act 1971 is a reference to the column of that number construed with section 25(2)(b) of that Act.

(5) Any reference in column 2 of Part III of Schedule 8 to this Act—

(a) to a numbered column of Schedule 6 to the [M168]Firearms Act 1968 is a reference to the column of that number construed with section 51(2)(b) of that Act; or

(b) **[**[F230]to a numbered column of Schedule 2 to the [M169]Firearms (Northern Ireland) Order 1981 is a reference to the column of that number construed with Article 52(2)(b) of that Order.**]**

(6) Section 143 of the [M170]Magistrates' Courts Act 1980 (power of Secretary of State by order to alter sums specified in certain provisions) shall have effect with the insertion, in subsection (2), after paragraph (p), of the following paragraph—

"(q) column 5 or 6 of Schedule 4 to the Misuse of Drugs Act 1971 so far as the column in question relates to the offences under provisions of that Act specified in column 1 of that Schedule in respect of which the maximum fines were increased by Part II of Schedule 8 to the Criminal Justice and Public Order Act 1994.".

[F231](7) . . . . . .

(8) Article 17 of the [M171]Fines and Penalties (Northern Ireland) Order 1984 (power of Secretary of State by order to alter sums specified in certain provisions of the law of Northern Ireland) shall have effect with the insertion, in paragraph (2), after sub-paragraph (j) of the following sub-paragraph—

"(k) column 5 or 6 of Schedule 4 to the [M172]Misuse of Drugs Act 1971 so far as the column in question relates to the offences under provisions of that Act specified in column 1 of that Schedule in respect of which the maximum fines were increased by Part II of Schedule 8 to the [M173]Criminal Justice and Public Order Act 1994.".

(9) Subsections (1), (2) and (3) above do not apply to an offence committed before this section comes into force.

Extent Information

E24 S. 157(1) extends to England and Wales and Scotland; s. 157(2) to (5) and (9) extends to the United Kingdom; s. 157(6) extends to England and Wales only; s. 157(7) extends to Scotland only; s. 157(8) extends to Northern Ireland only see s. 172(7)(8)(10)(13)(15)

Textual Amendments

F230 S. 157(5)(b) repealed (N.I.) (1.2.2005) by The Firearms (Northern Ireland) Order 2004 (N.I. 3), art. 1(3), {Sch. 8}; S.R. 2005/4, **art. 3**

F231 S. 157(7) repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5** (with Sch. 3 paras. 1, 3)

Commencement Information

I10 S. 157 wholly in force at 3.2.1995; s. 157 not in force at Royal Assent see s. 172; s. in force at 3.2.1995 subject to savings by S.I. 1995/127, art. 2(1), **Sch. 1** (with art. 3)

Marginal Citations

M167 1971 c. 38.

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M168 1968 c. 27.
M169 S.I. 1981/155 (N.I.2).
M170 1980 c. 43.
M171 S.I. 1984/703 (N.I.3).
M172 1971 c. 38.
M173 1994 c. 33.

Extradition procedures

158 Extradition procedures.

F232 . . . . . .

Textual Amendments

F232 S. 158 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 226, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to savings in the Order) (as amended by S.I. 2003/3312**art. 2(2)** and S.I. 2003/3258, **art. 2(2)**)

Commencement Information

I11 S. 158 wholly in force at 1.4.1997; s. 158 partly in force at Royal Assent see s. 172(4); s. 158(2)(6)(7) in force at 1.4.1997 and s. 158(5)(8) in force at 1.4.1997 by S.I. 1997/882, **arts. 2**, 3(1)(subject to transitional savings in art. 3(2)).

159 Backing of warrants: Republic of Ireland.

F233 . . . . . .

Textual Amendments

F233 S. 159 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 226, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to savings in the Order) (as amended by S.I. 2003/3312**art. 2(2)** and S.I. 2003/3258, **art. 2(2)**)

Commencement Information

I12 S. 159 wholly in force; s. 159 not in force at Royal Assent see s. 172; s. 159(1)(2)(4) in force at 19.12.1994 by S.I. 1994/2935, **art. 2**; s. 159(5) in force at 1.4.1997 by S.I. 1997/882, **art. 2**; s. 159(3) in force at 20.3.2002 by S.I. 2002/447, **art. 2**

Constabulary powers in United Kingdom waters

160 Extension of powers, etc., of constables to United Kingdom waters.

F234(1) . . . . . .

(2) Section 17 of the M174Police (Scotland) Act 1967 (general functions and jurisdiction of constables) shall be amended as follows—

(a) in subsection (4), after the word "Scotland" there shall be inserted the words " and (without prejudice to section 1(2) of this Act) the adjacent United Kingdom waters "; and

(b) after subsection (7) there shall be inserted the following subsection—

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"(7A) In this section—

"powers" includes powers under any enactment, whenever passed or made;

"United Kingdom waters" means the sea and other waters within the seaward limits of the territorial sea;

and this section, so far as it relates to powers under any enactment, makes them exercisable throughout those waters whether or not the enactment applies to those waters apart from this provision.".

Extent Information

E25 S. 160(1) extends to England and Wales only; s. 160(2) extends to Scotland only see s. 172(7)(13)

Textual Amendments

F234 S. 160(1) repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**

Marginal Citations

M174 1967 c. 77.

Obtaining computer-held information

F235161 . . . . . .

Textual Amendments

F235 S. 161 repealed (1.3.2000) by 1998 c. 29, s. 74(2), **Sch. 16 Pt. 1**; S.I. 2000/183, **art. 2(1)**

162 Access to computer material by constables and other enforcement officers.

(1) In section 10 of the **M175**Computer Misuse Act 1990 (offence of unauthorised access not to apply to exercise of law enforcement powers), after paragraph (b), there shall be inserted the following words—

"and nothing designed to indicate a withholding of consent to access to any program or data from persons as enforcement officers shall have effect to make access unauthorised for the purposes of the said section 1(1).

In this section "enforcement officer" means a constable or other person charged with the duty of investigating offences; and withholding consent from a person "as" an enforcement officer of any description includes the operation, by the person entitled to control access, of rules whereby enforcement officers of that description are, as such, disqualified from membership of a class of persons who are authorised to have access.".

(2) In section 17(5) of that Act (when access is unauthorised), after paragraph (b), there shall be inserted the following words— " but this subsection is subject to section 10. ".

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Marginal Citations
M175 1990 c. 18.

Closed-circuit television by local authorities

163 Local authority powers to provide closed-circuit television.

(1) Without prejudice to any power which they may exercise for those purposes under any other enactment, a local authority may take such of the following steps as they consider will, in relation to their area, promote the prevention of crime or the welfare of the victims of crime—

(a) providing apparatus for recording visual images of events occurring on any land in their area;

[F236(b) providing within their area an electronic communications service which is distributed—

(i) only to persons on a single set of premises; and

(ii) by an electronic communications network which is wholly within those premises and is not connected to an electronic communications network any part of which is outside those premises;**]**

(c) arranging for the provision of any other description of **[**F237electronic communications network or electronic communications service**]** within their area or between any land in their area and any building occupied by a public authority.

(2) Any power to provide, or to arrange for the provision of, any apparatus includes power to maintain, or operate, or, as the case may be, to arrange for the maintenance or operation of, that apparatus.

(3) Before taking such a step under this section, a local authority shall consult the chief officer of police for the police area in which the step is to be taken.

[F238(3A) For the purposes of subsection (1)(b)—

(a) a set of premises is a single set of premises if, and only if, the same person is the occupier of all the premises; and

(b) two or more vehicles are capable of constituting a single set of premises if, and only if, they are coupled together.**]**

(4) In this section—

"chief officer of police", in relation to a police area in Scotland, means the chief constable of a police force maintained for that area;

"local authority"—

(a) in England, means a county council or district council;

(b) in Wales, means a county council or county borough council; and

(c) in Scotland, has the meaning given by section 235(1) of the M176Local Government (Scotland) Act 1973; and

[F239"premises" includes a vehicle; and

"vehicle" includes a vessel, aircraft or hovercraft.**]**

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(5) Until 1st April 1996, in this section "local authority" means, in Wales, a county council or district council.

Textual Amendments

F236 S. 163(1)(b) substituted (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 17 para. 130(2)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in art. 3 (as amended by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

F237 Words in s. 163(1)(c) substituted (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 17 para. 130(3)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in art. 3 (as amended by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

F238 S. 163(3A) inserted (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 17 para. 130(4)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in art. 3 (as amended by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

F239 S. 163(4): definition of substituted (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 17 para. 130(5)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in art. 3 (as amended by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

Marginal Citations

M176 1973 c. 65.

Serious fraud

164 Extension of powers of Serious Fraud Office and of powers to investigate serious fraud in Scotland.

(1) [F240] . . . . . .

(2) Section 2 of the [M177]Criminal Justice Act 1987 (investigative powers of Director of Serious Fraud Office) shall be amended as follows—

(a) in subsection (1), for the words from "the Attorney-General" to "the request" there shall be substituted " an authority entitled to make such a request ";

(b) after subsection (1), there shall be inserted the following subsections—

"(1A) The authorities entitled to request the Director to exercise his powers under this section are—

(a) the Attorney-General of the Isle of Man, Jersey or Guernsey, acting under legislation corresponding to section 1 of this Act and having effect in the Island whose Attorney-General makes the request; and

(b) the Secretary of State acting under section 4(2A) of the [M178]Criminal Justice (International Co-operation) Act 1990, in response to a request received by him from an overseas court, tribunal or authority (an "overseas authority").

(1B) The Director shall not exercise his powers on a request from the Secretary of State acting in response to a request received from an

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overseas authority within subsection (1A)(b) above unless it appears to the Director on reasonable grounds that the offence in respect of which he has been requested to obtain evidence involves serious or complex fraud.";

(c) after subsection (8), there shall be inserted the following subsections—

"(8A) Any evidence obtained by the Director for use by an overseas authority shall be furnished by him to the Secretary of State for transmission to the overseas authority which requested it.

(8B) If in order to comply with the request of the overseas authority it is necessary for any evidence obtained by the Director to be accompanied by any certificate, affidavit or other verifying document, the Director shall also furnish for transmission such document of that nature as may be specified by the Secretary of State when asking the Director to obtain the evidence.

(8C) Where any evidence obtained by the Director for use by an overseas authority consists of a document the original or a copy shall be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request of the overseas authority."; and

(d) in subsection (18), at the end, there shall be inserted the words "; and "evidence" (in relation to subsections (1A)(b), (8A), (8B) and (8C) above) includes documents and other articles.".

(3) **[**F241In section 51(1) of the M179Criminal Justice (Scotland) Act 1987 (investigative powers of Lord Advocate as respects serious or complex fraud), at the end there shall be added "; and he may also give such a direction by virtue of section 4(2B) of the M180Criminal Justice (International Co-operation) Act 1990 or on a request being made to him by the Attorney-General of the Isle of Man, Jersey or Guernsey acting under legislation corresponding to this section and sections 52 to 54 of this Act.".**]**

(4) **[**F242In section 52 of the M181Criminal Justice (Scotland) Act 1987 (investigation by nominated officer)—

(a) after subsection (7) there shall be inserted—

"(7A) Any evidence obtained by the Lord Advocate by virtue of section 4(2B) of the Criminal Justice (International Co-operation) Act 1990 shall be furnished by him to the Secretary of State for transmission to the overseas authority in compliance with whose request (in the following subsections referred to as the "relevant request") it was so obtained.

(7B) If, in order to comply with the relevant request it is necessary for that evidence to be accompanied by any certificate, affidavit or other verifying document, the Lord Advocate shall also furnish for transmission such document of that nature as appears to him to be appropriate.

(7C) Where any evidence obtained by virtue of the said section 4(2B) consists of a document, the original or a copy shall be transmitted and where it consists of any other article the article itself or a description,

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photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the relevant request."; and

(b) in subsection (8), after the definition of "documents" there shall be inserted—

""evidence", in relation to a relevant request, includes documents and other articles;".**]**

Textual Amendments

F240 S. 164(1) repealed (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 94, 91, **Sch. 6**; S.I. 2004/786, **art. 3(3)**

F241 S. 164(3) repealed (S.) (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 7 para. 20**; S.S.I. 2011/178, art. 2, sch.

F242 S. 164(4) repealed (S.) (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **sch. 7 para. 20**; S.S.I. 2011/178, art. 2, sch.

Marginal Citations

M177 1987 c. 38.
M178 1990 c. 5.
M179 1987 c. 41.
M180 1990 c. 5.
M181 1987 c. 41.

PROSPECTIVE

Copyright and illicit recordings: enforcement of offences

165 Enforcement of certain offences relating to copyright and illicit recordings.

(1) The Copyright, Designs and Patents Act 1988 shall be amended as follows.

(2) After section 107 (offences relating to copyright) there shall be inserted the following section—

"**107A Enforcement by local weights and measures authority.**

(1) It is the duty of every local weights and measures authority to enforce within their area the provisions of section 107.

(2) The following provisions of the Trade Descriptions Act 1968 apply in relation to the enforcement of that section by such an authority as in relation to the enforcement of that Act—

section 27 (power to make test purchases),

section 28 (power to enter premises and inspect and seize goods and documents),

section 29 (obstruction of authorised officers), and

section 33 (compensation for loss, &c. of goods seized).

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(3) Subsection (1) above does not apply in relation to the enforcement of section 107 in Northern Ireland, but it is the duty of the Department of Economic Development to enforce that section in Northern Ireland.

For that purpose the provisions of the Trade Descriptions Act 1968 specified in subsection (2) apply as if for the references to a local weights and measures authority and any officer of such an authority there were substituted references to that Department and any of its officers.

(4) Any enactment which authorises the disclosure of information for the purpose of facilitating the enforcement of the Trade Descriptions Act 1968 shall apply as if section 107 were contained in that Act and as if the functions of any person in relation to the enforcement of that section were functions under that Act.

(5) Nothing in this section shall be construed as authorising a local weights and measures authority to bring proceedings in Scotland for an offence.".

(3) After section 198 (offences relating to illicit recordings) there shall be inserted the following section—

"**198A Enforcement by local weights and measures authority.**

(1) It is the duty of every local weights and measures authority to enforce within their area the provisions of section 198.

(2) The following provisions of the Trade Descriptions Act 1968 apply in relation to the enforcement of that section by such an authority as in relation to the enforcement of that Act—

section 27 (power to make test purchases),

section 28 (power to enter premises and inspect and seize goods and documents),

section 29 (obstruction of authorised officers), and

section 33 (compensation for loss, &c. of goods seized).

(3) Subsection (1) above does not apply in relation to the enforcement of section 198 in Northern Ireland, but it is the duty of the Department of Economic Development to enforce that section in Northern Ireland.

For that purpose the provisions of the Trade Descriptions Act 1968 specified in subsection (2) apply as if for the references to a local weights and measures authority and any officer of such an authority there were substituted references to that Department and any of its officers.

(4) Any enactment which authorises the disclosure of information for the purpose of facilitating the enforcement of the Trade Descriptions Act 1968 shall apply as if section 198 were contained in that Act and as if the functions of any person in relation to the enforcement of that section were functions under that Act.

(5) Nothing in this section shall be construed as authorising a local weights and measures authority to bring proceedings in Scotland for an offence.".

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Ticket touts

166 Sale of tickets by unauthorised persons.

[F243(1) It is an offence for an unauthorised person to—

(a) sell a ticket for a designated football match, or

(b) otherwise to dispose of such a ticket to another person.**]**

(2) For this purpose—

(a) a person is "unauthorised" unless he is authorised in writing to sell **[**F244or otherwise dispose of**]** tickets for the match F245. . . by the organisers of the match;

[F246(aa) a reference to selling a ticket includes a reference to—

(i) offering to sell a ticket;

(ii) exposing a ticket for sale;

(iii) making a ticket available for sale by another;

(iv) advertising that a ticket is available for purchase; and

(v) giving a ticket to a person who pays or agrees to pay for some other goods or services or offering to do so.**]**

(b) a "ticket" means anything which purports to be a ticket; and

[F247(c) a "designated football match" means a football match of a description, or a particular football match, for the time being designated for the purposes of **[**F248this section by order made by the Secretary of State**]**.**]**

[F249(2A) An order under subsection (2)(c) may designate descriptions of football matches wherever played or when played at descriptions of ground or in any area specified in the order.

(2B) The power of the Secretary of State to make an order under subsection (2)(c) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) F250. . . . . .

(5) Section 32 of the Police and Criminal Evidence Act 1984 (search of persons and premises (including vehicles) upon arrest) shall have effect, in its application in relation to an offence under this section, as if the power conferred on a constable to enter and search any vehicle extended to any vehicle which the constable has reasonable grounds for believing was being used for any purpose connected with the offence.

(6) The Secretary of State may by order made by statutory instrument apply this section, with such modifications as he thinks fit, to such sporting event or category of sporting event for which 6,000 or more tickets are issued for sale as he thinks fit.

(7) An order under subsection (6) above may provide that—

(a) a certificate (a "ticket sale certificate") signed by a duly authorised officer certifying that 6,000 or more tickets were issued for sale for a sporting event is conclusive evidence of that fact;

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(b) an officer is duly authorised if he is authorised in writing to sign a ticket sale certificate by [F251]. . . the organisers of the sporting event; and

(c) a document purporting to be a ticket sale certificate shall be received in evidence and deemed to be such a certificate unless the contrary is proved.

(8) Where an order has been made under subsection (6) above, this section also applies, with any modifications made by the order, to any part of the sporting event specified or described in the order, provided that 6,000 or more tickets are issued for sale for the day on which that part of the event takes place.

Textual Amendments

F243 S. 166(1) substituted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), **ss. 53(2)**, 66(2)(3); S.I. 2007/858, **art. 2(k)**

F244 Words in s. 166(2)(a) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), **ss.53(3)(a)(i)**, 66(2)(3); S.I. 2007/858, **art. 2(k)**

F245 Words in s. 166(2)(a) repealed (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 53(3)(a)(ii), 65, 66(2)(3), **Sch. 5**; S.I. 2007/858, **art. 2(k)(n)(vi)**

F246 S. 166(2)(aa) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), **ss. 53(3)(b)**, 66(2)(3); S.I. 2007/858, **art. 2(k)**

F247 S. 166(2)(c) substituted (27.9.1999) by 1999 c. 21, **ss. 10**, 12(2) (with s. 12(3))

F248 Words in s. 166(2)(c) substituted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), **ss. 53(3)(c)**, 66(2)(3); S.I. 2007/858, **art. 2(k)**

F249 S. 166(2A)(2B) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), **ss. 53(4)**, 66(2)(3); S.I. 2007/858, **art. 2(k)**

F250 S. 166(4) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

F251 Words in s. 166(7)(a) repealed (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 53(5), 65, 66(2)(3), **Sch. 5**; S.I. 2007/858, **art. 2(k)(n)(vi)**

[F252166A Supplementary provision relating to sale and disposal of tickets on internet

(1) Nothing in section 166 makes it an offence for a service provider established outside of the United Kingdom to do anything in the course of providing information society services.

(2) If—

(a) a service provider established in the United Kingdom does anything in an EEA State other than the United Kingdom in the course of providing information society services, and

(b) the action, if done in England and Wales, would constitute an offence falling within section 166(1),

the service provider shall be guilty in England and Wales of an offence under that section.

(3) A service provider is not capable of being guilty of an offence under section 166 in respect of anything done in the course of providing so much of an information society service as consists in—

(a) the transmission in a communication network of information falling within subsection (4), or

(b) the storage of information provided by a recipient of the service,

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except where subsection (5) applies.

(4) Information falls within this subsection if—

(a) it is provided by a recipient of the service; and

(b) it is the subject of automatic, intermediate and temporary storage which is solely for the purpose of making the onward transmission of the information to other recipients of the service at their request more efficient.

(5) This subsection applies at any time in relation to information if—

(a) the service provider knew when that information was provided that it contained material contravening section 166; or

(b) that information is stored at that time (whether as mentioned in subsection (3)(b) or (4)) in consequence of the service provider's failure expeditiously to remove the information, or to disable access to it, upon obtaining actual knowledge that the information contained material contravening section 166.

(6) In this section—

"the Directive" means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce);

"information society services"—

(a) has the meaning set out in Article 2(a) of the Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations, as amended by Directive 98/48/EC of 20 July 1998); and

(b) is summarised in recital 17 of the Directive as covering "any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service";

"EEA State" means a state which is for the time being a member State, Norway, Iceland or Liechtenstein;

"recipient of the service" means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

"service provider" means any person providing an information society service.]

Textual Amendments

F252 S. 166A inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), **ss. 53(6)**, 66(2)(3); S.I. 2007/858, **art. 2(k)**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Taxi touts

167 Touting for hire car services.

(1) Subject to the following provisions, it is an offence, in a public place, to solicit persons to hire vehicles to carry them as passengers.

(2) Subsection (1) above does not imply that the soliciting must refer to any particular vehicle nor is the mere display of a sign on a vehicle that the vehicle is for hire soliciting within that subsection.

(3) No offence is committed under this section where soliciting persons to hire licensed taxis is permitted by a scheme under section 10 of the [M185]Transport Act 1985 (schemes for shared taxis) whether or not supplemented by provision made under section 13 of that Act (modifications of the taxi code).

(4) It is a defence for the accused to show that he was soliciting for **[**[F253]passengers to be carried at separate fares by public service vehicles**]** on behalf of the holder of a PSV operator's licence for those vehicles whose authority he had at the time of the alleged offence.

(5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) In this section—

"public place" includes any highway and any other premises or place to which at the material time the public have or are permitted to have access (whether on payment or otherwise); and

"public service vehicle" and "PSV operator's licence" have the same meaning as in Part II of the [M186]Public Passenger Vehicles Act 1981.

(7) [F254] . . . . . .

Textual Amendments

F253 Words in s. 167(4) substituted (1.7.2001) by 2000 c. 38, **s. 265(3)**; S.I. 2001/1498, **art. 3**

F254 S. 167(7) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

Marginal Citations

M185 1985 c. 67.

M186 1981 c. 14.

General

168 Minor and consequential amendments and repeals.

(1) The enactments mentioned in Schedule 9 to this Act shall have effect with the amendments there specified (being minor amendments).

(2) The enactments mentioned in Schedule 10 to this Act shall have effect with the amendments there specified (amendments consequential on the foregoing provisions of this Act).

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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) The enactments mentioned in Schedule 11 to this Act (which include enactments which are spent) are repealed or revoked to the extent specified in the third column of that Schedule.

Commencement Information

I13 S. 168 partly in force; s. 168 not in force at Royal Assent see s. 172; s. 168 in force for specified purposes (9.1.1995) by S.I. 1994/3192, art. 2, **Sch.**; s. 168 in force for further specified purposes at 3.2.1995 by S.I. 1995/127, art. 2, **Sch. 1** (with transitional provisions in Sch. 2); s. 168 in force for further specified purposes at 10.4.1995 by S.I. 1995/721, art. 2, **Sch.**; s. 168 in force for further specified purposes at 4.9.1995 by S.I. 1995/1957, **art. 6**; s. 168 in force for further specified purposes at 1.3.1998 by S.I. 1998/277, **art. 3(2)(3)**; s. 168 in force for further specified purposes at 20.3.2002 by S.I. 2002/447, **art. 2**

169 Power of Secretary of State to make payments or grants in relation to crime prevention, etc.

(1) The Secretary of State may, with the consent of the Treasury—

(a) make such payments, or

(b) pay such grants, to such persons,

as he considers appropriate in connection with measures intended to prevent crime or reduce the fear of crime.

(2) Any grant under subsection (1)(b) above may be made subject to such conditions as the Secretary of State may, with the agreement of the Treasury, see fit to impose.

(3) Payments under this section shall be made out of money provided by Parliament.

170 Security costs at party conferences.

(1) The Secretary of State may, with the consent of the Treasury, pay grants towards expenditure incurred by a **[**F255qualifying registered political party**]**, or by a person acting for a qualifying political party, on measures to which this section applies.

(2) This section applies to measures which are—

(a) taken for the protection of persons or property in connection with a conference held in Great Britain for the purposes of the party, and

(b) certified by a chief officer of police as having been appropriate.

(3) A political party is a **[**F255qualifying registered political party**]**for the purposes of this section if, at the last general election before the expenditure was incurred,—

(a) at least two members of the party were elected to the House of Commons, or

(b) one member of the party was elected to the House of Commons and not less than 150,000 votes were given to candidates who were members of the party.

(4) Payments under this section shall be made out of money provided by Parliament.

[F256(5) In this section "registered political party" means a party registered under **[**F257the Political Parties, Elections and Referendums Act 2000**]**.**]**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F255 Words in s. 170(1)(3) substituted (24.3.1999) by 1998 c. 48, **s. 15(1)(2)**; S.I. 1999/393, **art. 2**

F256 S. 170(5) added (24.3.1999) by 1998 c. 48, **s. 15(1)(3)**; S.I. 1999/393, **art. 2**

F257 Words in s. 170(5) substituted (16.2.2001) by 2000 c. 41, s. 158, **Sch. 21 para. 11** (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1** (subject to transitional provisions in Sch. 1 Pt. II)

171 Expenses etc. under Act.

There shall be paid out of money provided by Parliament—

(a) any sums required by the Secretary of State for making payments under contracts entered into under or by virtue of sections 2, 3, 7, 11, 96, 99, 100, 102(4), 106(1), 112(1) or 118(3) or paragraph 1 of Schedule 1;

(b) any administrative expenses incurred by the Secretary of State; and

(c) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

172 Short title, commencement and extent.

(1) This Act may be cited as the Criminal Justice and Public Order Act 1994.

(2) With the exception of section 82 and subject to subsection (4) below, this Act shall come into force on such day as the Secretary of State or, in the case of sections 52 and 53, the Lord Chancellor may appoint by order made by statutory instrument, and different days may be appointed for different provisions or different purposes.

(3) Any order under subsection (2) above may make such transitional provisions and savings as appear to the authority making the order necessary or expedient in connection with any provision brought into force by the order.

(4) The following provisions and their related amendments, repeals and revocations shall come into force on the passing of this Act, namely sections 5 to 15 (and Schedules 1 and 2), 61, 63, 65, 68 to 71, 77 to 80, 81, 83, 90, Chapters I and IV of Part VIII, sections 142 to 148, 150, 158(1), (3) and (4), 166, 167, 171, paragraph 46 of Schedule 9 and this section.

(5) No order shall be made under subsection (6) of section 166 above unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(6) For the purposes of subsection (4) above—

(a) the following are the amendments related to the provisions specified in that subsection, namely, in Schedule 10, paragraphs 26, 35, 36, 59, 60 and 63(1), (3), (4) and (5);

(b) the repeals and revocations related to the provisions specified in that subsection are those specified in the Note at the end of Schedule 11.

(7) Except as regards any provisions applied under section 39 and subject to the following provisions, this Act extends to England and Wales only.

(8) Sections 47(3), 49, **[**F258 60 to 67**]**, 70, 71, 81, 82, 146(4), 157(1), 163, 169 and 170 also extend to Scotland.

(9) Section 83(1) extends to England and Wales and Northern Ireland.

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(10) This section, sections 68, 69, 83(3) to (5), 88 to 92, 136 to 141, 156, 157(2), (3), (4), (5) and (9), 158, 159, 161, 162, 164, 165, 168, 171 and Chapter IV of Part VIII extend to the United Kingdom and sections 158 and 159 also extend to the Channel Islands and the Isle of Man.

(11) Sections 93, 95 and 101(8), so far as relating to the delivery of prisoners to or from premises situated in a part of the British Islands outside England and Wales, extend to that part of those Islands.

(12) Sections 102(1) to (3), 104, 105 and 117, so far as relating to the transfer of prisoners to or from premises situated in a part of the British Islands outside Scotland, extend to that part of those Islands, but otherwise Chapter II of Part VIII extends to Scotland only.

(13) Sections 47(4), 83(2), 84(5) to (7), 87, Part IX, sections 145(2), 146(2), 148, 151(2), 152(2), 153, 157(7) and 160(2) extend to Scotland only.

[[F259](13A) Subject to subsection (14), Chapter 3 of Part 8 extends to Northern Ireland only.**]**

(14) Sections **[**[F260]117A,**]** 118, 120, 121 and 125, so far as relating to the delivery of prisoners to or from premises situated in a part of the British Islands outside Northern Ireland, **[**[F261]also**]** extend to that part of those islands, **[**[F262]except that section 117A does not extend to any part of those islands outside the United Kingdom**]**.

(15) Sections 53, 84(8) to (11), 85(4) to (6), 86(2), 145(3), 147 and 157(8) extend to Northern Ireland only.

(16) Where any enactment is amended, repealed or revoked by Schedule 9, 10 or 11 to this Act the amendment, repeal or revocation has the same extent as that enactment; except that Schedules 9 and 11 do not extend to Scotland in so far as they relate to section 17(1) of the [M187]Video Recordings Act 1984.

Subordinate Legislation Made

P1 S. 172(2) power partly exercised: 19.12.1994 appointed for specified provisions by S.I. 1994/2935, **art. 2**
S. 172(2) power partly exercised: 9.1.1995 appointed for specified provisions by S.I. 1994/3192, **art. 2**
S. 172(2) power partly exercised: 11.1.1995 appointed for specified provisions by S.I. 1994/3258, **art. 2**
S. 172(2) power partly exercised: 2.2.1995 appointed for specified provisions by S.I. 1995/24, **art. 2**
S. 172(2) power partly exercised: Different dates appointed for specified provisions by S.I. 1995/127, **art. 2**
S. 172(2) power partly exercised: 10.4.1995 appointed for specified provisions by S.I. 1995/721, art. 2, **Sch.**
S. 172(2) power partly exercised: 30.5.1995 appointed for specified provisions by S.I. 1995/1378, **art. 2**
S. 172(2) power partly exercised: Different dates appointed for specified provisions by S.I. 1995/1957, **arts. 3-6**
S. 172(2) power partly exercised: 8.3.1996 appointed for specified provisions by S.I. 1996/625, **art. 2**
S. 172(2) power partly exercised: 1.7.1996 appointed for specified provisions by 1996/1530, art. 2 (which S.I. is revoked (20.6.1996) by S.I. 1996/1608, **art. 3**)
S. 172(2) power partly exercised: 1.7.1996 appointed for specified provisions by S.I. 1996/1608, **art. 2**
S. 172(2) power partly exercised: 1.4.1997 appointed for specified provisions by S.I. 1997/882, **arts. 2**, 3

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S. 172(2) power partly exercised: 1.3.1998 appointed for specified provisions by S.I. 1998/277, **art. 3**
S. 172(2) power partly exercised: 20.3.2002 appointed for specified provisions by S.I. 2002/447, **art. 2**
S. 172(2) power partly exercised: 6.4.2007 appointed for specified provision by S.I. 2007/621, **art. 2**

Textual Amendments

F258 Words in s. 172(8) substituted (1.3.1999) by 1997 c. 21, **s. 8(11)**; S.I. 1999/5, **art. 2**

F259 S. 172(13A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 7(2)** (with arts. 28-31)

F260 Word in s. 172(14) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 7(3)(a)** (with arts. 28-31)

F261 Word in s. 172(14) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 7(3)(b)** (with arts. 28-31)

F262 Words in s. 172(14) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 7 para. 7(3)(c)** (with arts. 28-31)

Marginal Citations

M187 1984 c. 39.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

SCHEDULES

SCHEDULE 1

Section 12.

ESCORT ARRANGEMENTS: ENGLAND AND WALES

Arrangements for the escort of [F263persons detained in youth detention accommodation]

Textual Amendments

F263 Words in Sch. 1 para. 1 heading substituted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 35(2)**, 41(1); S.I. 2007/3001, **art. 2(1)(l)**

1 (1) The Secretary of State may make arrangements for any of the following functions, namely—

(a) the delivery of [F264detained persons] from one set of relevant premises to another;

(b) the custody of [F264detained persons] held on the premises of any court (whether or not they would otherwise be in the custody of the court) and their production before the court;

[F265(c) the custody of detained persons temporarily held in youth detention accommodation in the course of delivery from one such place of accommodation to another; and

(d) the custody of detained persons while they are outside a place of youth detention accommodation for temporary purposes,]

to be performed in such cases as may be determined by or under the arrangements by custody officers who are authorised to perform such functions.

(2) In sub-paragraph (1)(a) above, "relevant premises" means [F266a place of youth detention accommodation or a court] , police station or hospital.

(3) Arrangements made by the Secretary of State under sub-paragraph (1) above ("escort arrangements") may include entering into contracts with other persons for the provision by them of custody officers.

(4) Any person who, under a warrant or a hospital order or hospital remand is responsible for the performance of any such function as is mentioned in sub-paragraph (1) above shall be deemed to have complied with the warrant, order or remand if he does all that he reasonably can to secure that the function is performed by a custody officer acting in pursuance of escort arrangements.

(5) In this paragraph—

"hospital" has the same meaning as in the M188Mental Health Act 1983;

"hospital order" means an order for a person's admission to hospital made under section 37, 38 or 44 of that Act, section 5 of the M189Criminal Procedure (Insanity) Act 1964 or section 6, 14 or 14A of the M190Criminal Appeal Act 1968;

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"hospital remand" means a remand of a person to hospital under section 35 or 36 of the Mental Health Act 1983;

"warrant" means a warrant of commitment, a warrant of arrest or a warrant under section 46, 47, 48, 50 or 74 of that Act.

Textual Amendments

F264 Words in Sch. 1 para. 1(1)(a)(b) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 35(3)(a)**, 41(1); S.I. 2007/3001, **art. 2(1)(l)**

F265 Sch. 1 para. 1(1)(d)(c) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 35(3)(a)**, 41(1); S.I. 2007/3001, **art. 2(1)(l)**

F266 Words in Sch. 1 para. 1(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 35(3)(b)**, 41(1); S.I. 2007/3001, **art. 2(1)(l)**

Modifications etc. (not altering text)

C65 Sch. 1 para. 1: Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(j)**

Marginal Citations

M188 1983 c. 20.

M189 1964 c. 84.

M190 1968 c. 19.

Monitoring etc. of escort arrangements

2 (1) Escort arrangements shall include the appointment of—

(a) an escort monitor, that is to say, a Crown servant whose duty it shall be to keep the arrangements under review and to report on them to the Secretary of State; and

(b) a panel of lay observers whose duty it shall be to inspect the conditions in which **[**F267detained persons**]** are transported or held in pursuance of the arrangements and to make recommendations to the Secretary of State.

(2) It shall also be the duty of an escort monitor to investigate and report to the Secretary of State on any allegations made against custody officers acting in pursuance of escort arrangements.

(3) Any expenses incurred by members of lay panels may be defrayed by the Secretary of State to such extent as he may with the approval of the Treasury determine.

Textual Amendments

F267 Words in Sch. 1 para. 2(1)(b) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 25**; S.I. 2007/3001, **art. 2(1)(r)**

Modifications etc. (not altering text)

C66 Sch. 1 para. 2(1)(a)(2): Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(k)(iv)**

Powers and duties of custody officers acting in pursuance of escort arrangements

3 (1) A custody officer acting in pursuance of escort arrangements shall have the following powers, namely—

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(a) to search in accordance with rules made by the Secretary of State any **[**F268detained person**]** for whose delivery or custody he is responsible in pursuance of the arrangements; and

(b) to search any other person who is in or is seeking to enter any place where any such **[**F268detained person**]** is or is to be held, and any article in the possession of such a person.

(2) The powers conferred by sub-paragraph (1)(b) above to search a person shall not be construed as authorising a custody officer to require a person to remove any of his clothing other than an outer coat, headgear, jacket or gloves.

(3) A custody officer shall have the following duties as respects **[**F269detained persons**]** for whose delivery or custody he is responsible in pursuance of escort arrangements, namely—

(a) to prevent their escape from lawful custody;

(b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;

(c) to ensure good order and discipline on their part;

(d) to attend to their wellbeing; and

(e) to give effect to any directions as to their treatment which are given by a court,

and the Secretary of State may make rules with respect to the performance by custody officers of their duty under (d) above.

(4) The powers conferred by sub-paragraph (1) above, and the powers arising by virtue of sub-paragraph (3) above, shall include power to use reasonable force where necessary.

(5) The power to make rules 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

F268 Words in Sch. 1 para. 3(1)(a)(b) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 26(a)**; S.I. 2007/3001, **art. 2(1)(r)**

F269 Words in Sch. 1 para. 3(3) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 26(b)**; S.I. 2007/3001, **art. 2(1)(r)**

Interpretation

4 In this Schedule—

[F270"detained person" means a person remanded or committed to accommodation which is youth detention accommodation or detained in any such accommodation pursuant to a sentence or order requiring the person to be detained;**]**

"escort arrangements" has the meaning given by paragraph 1 above;

F271 . . .

F272 . . . . . .

F272 . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F270 Sch. 1 para. 4: definition of "detained person" inserted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 35(4)(a)**, 41(1); S.I. 2007/3001, **art. 2(1)(l)**

F271 Word in Sch. 1 para. 4 repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), {Sch. 5 Pt. 3)}; S.I. 2007/3001, **art. 2(1)(u)(i)**

F272 Sch. 1 para. 4: the definitions of "offender" and "secure training centre" repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 35(4)(b), 39, 41(1), {Sch. 5 Pt. 3)}; S.I. 2007/3001, **art. 2(1)(u)(i)**

SCHEDULE 2

Section 12.

CERTIFICATION OF CUSTODY OFFICERS: ENGLAND AND WALES

Preliminary

1 In this Schedule—

"certificate" means a certificate under section 12(3) of this Act;

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

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.

(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)

C67 Sch. 2 para. 2: Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(k)(ii)**

Suspension of certificate

3 (1) This paragraph applies where at any time—

(a) in the case of a custody officer acting in pursuance of escort arrangements, it appears to the escort monitor that the officer is not a fit and proper person to perform escort functions;

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(b) in the case of a custody officer performing custodial duties at a contracted out secure training centre, it appears to the **[**F273monitor**]**of the secure training centre that the officer is not a fit and proper person to perform custodial duties; or

(c) in the case of a custody officer performing contracted out functions at a directly managed secure training centre, it appears to the **[**F273governor**]** of that secure training centre that the officer is not a fit and proper person to perform custodial duties.

(2) The escort monitor **[**F274, monitor or governor**]** may—

(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

F273 Words in Sch. 2 para. 3(1)(b)(c) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 113(1)(a)(b)** (with Sch. 9); S.I. 1998/2327, **art. 2**

F274 Words in Sch. 2 para. 3(2) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 113(2)** (with Sch. 9); S.I. 1998/2327, **art. 2**

Modifications etc. (not altering text)

C68 Sch. 2 para. 3(2)(a): Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(k)(ii)**

Revocation of certificate

4 Where at any time it appears to the Secretary of State that a custody officer is not a fit and proper person to perform escort functions or custodial duties, he may revoke that officer's certificate so far as it authorises the performance of those functions or duties.

Modifications etc. (not altering text)

C69 Sch. 2 para. 4: Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(k)(ii)**

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.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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SCHEDULE 3

Section 27.

BAIL: SUPPLEMENTARY PROVISIONS

Bail Act 1976

1 Section 5 of the [M191]Bail Act 1976 (supplementary provisions about decisions on bail) shall be amended as follows—

(a) in subsection (1)(d), after the words "a court" there shall be inserted the words " or constable "; and

(b) after subsection (10), there shall be inserted the following subsection—

"(11) This section is subject, in its application to bail granted by a constable, to section 5A of this Act.".

Marginal Citations
M191 1976 c. 63.

2 After section 5 of the Bail Act 1976 there shall be inserted the following section—

"**5A Supplementary provisions in cases of police bail.**

(1) Section 5 of this Act applies, in relation to bail granted by a custody officer under Part IV of the Police and Criminal Evidence Act 1984 in cases where the normal powers to impose conditions of bail are available to him, subject to the following modifications.

(2) For subsection (3) substitute the following—

(") Where a custody officer, in relation to any person,—

(a) imposes conditions in granting bail in criminal proceedings, or

(b) varies any conditions of bail or imposes conditions in respect of bail in criminal proceedings,

the custody officer shall, with a view to enabling that person to consider requesting him or another custody officer, or making an application to a magistrates' court, to vary the conditions, give reasons for imposing or varying the conditions.".

(3) For subsection (4) substitute the following—

(") A custody officer who is by virtue of subsection (3) above required to give reasons for his decision shall include a note of those reasons in the custody record and shall give a copy of that note to the person in relation to whom the decision was taken.".

(4) Subsections (5) and (6) shall be omitted.".

Magistrates' Courts Act 1980

3 After section 43A of the [M192]Magistrates' Courts Act 1980 there shall be inserted the following section—

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

"**43B Power to grant bail where police bail has been granted.**

(1) Where a custody officer—

(a) grants bail to any person under Part IV of the Police and Criminal Evidence Act 1984 in criminal proceedings and imposes conditions, or

(b) varies, in relation to any person, conditions of bail in criminal proceedings under section 3(8) of the Bail Act 1976,

a magistrates' court may, on application by or on behalf of that person, grant bail or vary the conditions.

(2) On an application under subsection (1) the court, if it grants bail and imposes conditions or if it varies the conditions, may impose more onerous conditions.

(3) On determining an application under subsection (1) the court shall remand the applicant, in custody or on bail in accordance with the determination, and, where the court withholds bail or grants bail the grant of bail made by the custody officer shall lapse.

(4) In this section "bail in criminal proceedings" and "vary" have the same meanings as they have in the Bail Act 1976.".

Marginal Citations
M192 1980 c. 43.

F275SCHEDULE 4

Textual Amendments
F275 Sch. 4 repealed (*retrospective* to 3.11.1994) by 1995 c. 25, ss. 44(2)(6), 80, **Sch. 5** Note 2

SCHEDULE 5

Section 45.

MAGISTRATES' COURTS: DEALING WITH CASES WHERE ACCUSED PLEADS GUILTY

Non-appearance of accused: plea of guilty

1 For section 12 of the M193Magistrates' Courts Act 1980 ("the 1980 Act") there shall be substituted the following section—

"**12 Non-appearance of accused: plea of guilty.**

(1) This section shall apply where—

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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) a summons has been issued requiring a person to appear before a magistrates' court, other than a youth court, to answer to an information for a summary offence, not being—

(i) an offence for which the accused is liable to be sentenced to be imprisoned for a term exceeding 3 months; or

(ii) an offence specified in an order made by the Secretary of State by statutory instrument; and

(b) the clerk of the court is notified by or on behalf of the prosecutor that the documents mentioned in subsection (3) below have been served upon the accused with the summons.

(2) The reference in subsection (1)(a) above to the issue of a summons requiring a person to appear before a magistrates' court other than a youth court includes a reference to the issue of a summons requiring a person who has attained the age of 16 at the time when it is issued to appear before a youth court.

(3) The documents referred to in subsection (1)(b) above are—

(a) a notice containing such statement of the effect of this section as may be prescribed;

(b) a concise statement in the prescribed form of such facts relating to the charge as will be placed before the court by or on behalf of the prosecutor if the accused pleads guilty without appearing before the court; and

(c) if any information relating to the accused will or may, in those circumstances, be placed before the court by or on behalf of the prosecutor, a notice containing or describing that information.

(4) Where the clerk of the court receives a notification in writing purporting to be given by the accused or by a legal representative acting on his behalf that the accused desires to plead guilty without appearing before the court—

(a) the clerk of the court shall inform the prosecutor of the receipt of the notification; and

(b) the following provisions of this section shall apply.

(5) If at the time and place appointed for the trial or adjourned trial of the information—

(a) the accused does not appear; and

(b) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed, that the documents mentioned in subsection (3) above have been served upon the accused with the summons,

the court may, subject to section 11(3) and (4) above and subsections (6) to (8) below, proceed to hear and dispose of the case in the absence of the accused, whether or not the prosecutor is also absent, in like manner as if both parties had appeared and the accused had pleaded guilty.

(6) If at any time before the hearing the clerk of the court receives an indication in writing purporting to be given by or on behalf of the accused that he wishes to withdraw the notification—

(a) the clerk of the court shall inform the prosecutor of the withdrawal; and

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(b) the court shall deal with the information as if the notification had not been given.

(7) Before accepting the plea of guilty and convicting the accused under subsection (5) above, the court shall cause the following to be read out before the court by the clerk of the court, namely—

(a) the statement of facts served upon the accused with the summons;

(b) any information contained in a notice so served, and any information described in such a notice and produced by or on behalf of the prosecutor;

(c) the notification under subsection (4) above; and

(d) any submission received with the notification which the accused wishes to be brought to the attention of the court with a view to mitigation of sentence.

(8) If the court proceeds under subsection (5) above to hear and dispose of the case in the absence of the accused, the court shall not permit—

(a) any other statement with respect to any facts relating to the offence charged; or

(b) any other information relating to the accused,

to be made or placed before the court by or on behalf of the prosecutor except on a resumption of the trial after an adjournment under section 10(3) above.

(9) If the court decides not to proceed under subsection (5) above to hear and dispose of the case in the absence of the accused, it shall adjourn or further adjourn the trial for the purpose of dealing with the information as if the notification under subsection (4) above had not been given.

(10) In relation to an adjournment on the occasion of the accused's conviction in his absence under subsection (5) above or to an adjournment required by subsection (9) above, the notice required by section 10(2) above shall include notice of the reason for the adjournment.

(11) No notice shall be required by section 10(2) above in relation to an adjournment—

(a) which is for not more than 4 weeks; and

(b) the purpose of which is to enable the court to proceed under subsection (5) above at a later time.

(12) No order shall be made under subsection (1) above unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

(13) Any such document as is mentioned in subsection (3) above may be served in Scotland with a summons which is so served under the Summary Jurisdiction (Process) Act 1881.".

Marginal Citations
M193 1980 c. 43.

Application of section 12 procedure where accused appears

2 After section 12 of the 1980 Act there shall be inserted the following section—

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

"**12A Application of section 12 where accused appears.**

(1) Where the clerk of the court has received such a notification as is mentioned in subsection (4) of section 12 above but the accused nevertheless appears before the court at the time and place appointed for the trial or adjourned trial, the court may, if he consents, proceed under subsection (5) of that section as if he were absent.

(2) Where the clerk of the court has not received such a notification and the accused appears before the court at that time and place and informs the court that he desires to plead guilty, the court may, if he consents, proceed under section 12(5) above as if he were absent and the clerk had received such a notification.

(3) For the purposes of subsections (1) and (2) above, subsections (6) to (11) of section 12 above shall apply with the modifications mentioned in subsection (4) or, as the case may be, subsection (5) below.

(4) The modifications for the purposes of subsection (1) above are that—

(a) before accepting the plea of guilty and convicting the accused under subsection (5) of section 12 above, the court shall afford the accused an opportunity to make an oral submission with a view to mitigation of sentence; and

(b) where he makes such a submission, subsection (7)(d) of that section shall not apply.

(5) The modifications for the purposes of subsection (2) above are that—

(a) subsection (6) of section 12 above shall apply as if any reference to the notification under subsection (4) of that section were a reference to the consent under subsection (2) above;

(b) subsection (7)(c) and (d) of that section shall not apply; and

(c) before accepting the plea of guilty and convicting the accused under subsection (5) of that section, the court shall afford the accused an opportunity to make an oral submission with a view to mitigation of sentence.".

Consequential amendments

3 (1) In consequence of the amendments made by paragraphs 1 and 2 above the [M194]Magistrates' Courts Act 1980 shall be further amended as follows.

(2) For section 13(4), there shall be substituted the following subsection—

"(4) This section shall not apply to an adjournment on the occasion of the accused's conviction in his absence under subsection (5) of section 12 above or to an adjournment required by subsection (9) of that section.".

(3) In section 13(5), for "12(2)" there shall be substituted " 12(5) ".

(4) In section 155(2), for "12(8)" there shall be substituted " 12(13) ".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Marginal Citations
M194 1980 c. 43.

SCHEDULE 6

Section 114.

CERTIFICATION OF PRISONER CUSTODY OFFICERS: SCOTLAND

Preliminary

1 In this Schedule—

"certificate" means a certificate under section 114 of this Act;

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

Issue of certificates

2 (1) The Secretary of State may, on the application of any person, issue a certificate in respect of that person.

(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.

(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.

Suspension of certificate

3 (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, controller or governor may—

(a) refer the matter to the Secretary of State for a decision under paragraph 4 below; and

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Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(b) in such circumstances as may be prescribed by prison rules, 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.

Revocation of certificate

4 Where at any time (whether on a reference to him under paragraph 3(2)(a) above or otherwise) 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 may revoke that officer's certificate so far as it authorises the performance of those functions or duties.

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 guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

SCHEDULE 7

Section 122(2).

CERTIFICATION OF PRISONER CUSTODY OFFICERS: NORTHERN IRELAND

Preliminary

1 In this Schedule—

"certificate" means a certificate under section 122 of this Act;

"the relevant functions", in relation to a certificate, means the escort functions authorised by the certificate.

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 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Suspension of certificate

3 (1) This paragraph applies where at any time it appears to the prisoner escort monitor for the area concerned, that a prisoner custody officer is not a fit and proper person to perform the escort functions.

(2) The prisoner escort monitor may—

(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.

(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.

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, he may revoke that officer's certificate so far as it authorises the performance of those functions.

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.

SCHEDULE 8

Section 157.

INCREASE IN PENALTIES

Commencement Information

I14 Sch. 8 wholly in force at 3.2.1995; Sch. 8 not in force at Royal Assent see s. 172; Sch. 8 in force at 3.2.1995 subject to savings by S.I. 1995/127, art. 2(1), **Sch. 1** (with art. 3)

PART I

INCREASE OF FINES FOR CERTAIN SEA FISHERIES OFFENCES

(1) Enactment creating offence	(2) Penalty enactment	(3) Old maximum fine	(4) New maximum fine

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

SEA FISHERIES (SHELLFISH) ACT 1967 (c.83).

. **F276**	. **F276**	. **F276**	. **F276**
. . .	. . .	. . .	. . .
Offences under section 5(7) (obstruction of inspector or other person or refusal or failure to provide information to inspector etc.).	Section 5(7).	Level 3.	Level 5.
F276	**F276**	**F276**	**F276**
. . .	. . .	. . .	. . .
Offences under section 14(2) (contravention of order prohibiting the deposit or taking of shellfish, or importation of shellfish, or non-compliance with conditions of licences).	Section 14(2).	Level 4.	Level 5.
Offences under section 14(5) (obstruction of inspector).	Section 14(5).	Level 3.	Level 5.
Offences under section 16(1) (selling etc. of oysters between certain dates).	Section 16(1).	Level 1.	Level 4.
Offences under section 17(1) (taking and selling etc. of certain crabs).	Section 17(4).	Level 3.	Level 5.
Offences under section 17(3) (landing and selling etc. of certain lobsters).	Section 17(4).	Level 3.	Level 5.

Textual Amendments

F276 Sch. 8 Pt. 1: specified entry repealed (S.) (1.8.2007) by Aquaculture and Fisheries (Scotland) Act 2007 (asp 12), ss. 41, 45, Sch. para. 5 (with s. 39); S.S.I 2007/333, art. 2(1) (subject to arts. 3, 4) and other

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

specified entries in Sch. 8 Pt. I repealed (E.W.) (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 5(A)**; S.I. 2009/3345, art. 2, Sch. para. 27(b) and those entries in Sch. 8 Pt. 1 fully repealed (S.) (24.2.2011) by Marine (Scotland) Act 2010 (asp 5), s. 168(1), **sch. 4 para. 13** (with s. 162); S.S.I. 2011/58, art. 2(b)

PART II

INCREASE OF FINES FOR CERTAIN MISUSE OF DRUGS OFFENCES

Commencement Information

I15 Sch. 8 Pt. II wholly in force at 3.2.1995; Sch. 8 Pt. II not in force at Royal Assent see s. 172; Sch. 8 Pt. II in force at 3.2.1995 subject to savings by S.I. 1995/127, art. 2(1), **Sch. 1** (with art. 3)

(1) Enactment creating offence	(2) Penalty enactment	(3) Old maximum fine	(4) New maximum fine
MISUSE OF DRUGS ACT 1971 (c. 38.)			
Offences under section 4(2) committed in relation to Class C drugs (production, or being concerned in the production of, a controlled drug).	Schedule 4, column 6.	£500	£2,500
Offences under section 4(3) committed in relation to Class C drugs (supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another).	Schedule 4, column 6.	£500	£2,500
Offences under section 5(2) committed in relation to Class B drugs (having possession of a controlled drug).	Schedule 4, column 5.	£500	£2,500
Offences under section 5(2) committed in relation to Class C drugs	Schedule 4, column 6.	£200	£1,000

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(having possession of a controlled drug).			
Offences under section 5(3) committed in relation to Class C drugs (having possession of a controlled drug with intent to supply it to another).	Schedule 4, column 6.	£500	£2,500
Offences under section 8 committed in relation to Class C drugs (being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there).	Schedule 4, column 6.	£500	£2,500
Offences under section 12(6) committed in relation to Class C drugs (contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs).	Schedule 4, column 6.	£500	£2,500
Offences under section 13(3) committed in relation to Class C drugs (contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs).	Schedule 4, column 6.	£500	£2,500

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

INCREASE IN PENALTIES FOR CERTAIN FIREARMS OFFENCES

Commencement Information

I16 Sch. 8 Pt. III wholly in force at 3.2.1995; Sch. 8 Pt. III not in force at Royal Assent see s. 172; Sch. 8 Pt. III in force at 3.2.1995 subject to savings by S.I. 1995/127, art. 2(1), **Sch. 1** (with art. 3)

(1) Enactment creating offence	(2) Penalty enactment	(3) Old maximum term of imprisonment	(4) New maximum term of imprisonment
FIREARMS ACT 1968 (c.27).			
Offences under section 1(1) committed in an aggravated form within the meaning of section 4(4) (possessing etc. shortened shot gun or converted firearm without firearm certificate).	Schedule 6, column 4.	5 years.	7 years.
Offences under section 1(1) in any other case (possessing etc. firearms or ammunition without firearm certificate).	Schedule 6, column 4.	3 years.	5 years.
Offences under section 2(1) (possessing etc. shot gun without shot gun certificate).	Schedule 6, column 4.	3 years.	5 years.
Offences under section 3(1) (trading in firearms without being registered as a firearms dealer).	Schedule 6, column 4.	3 years.	5 years.
Offences under section 3(2) (selling firearms to person without a certificate).	Schedule 6, column 4.	3 years.	5 years.
Offences under section 3(3) (repairing, testing	Schedule 6, column 4.	3 years.	5 years.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

etc. firearm for person without a certificate).			
Offences under section 3(5) (falsifying certificate, etc., with view to acquisition of firearm).	Schedule 6, column 4.	3 years.	5 years.
Offences under section 4(1) (shortening a shot gun).	Schedule 6, column 4.	5 years.	7 years.
Offences under section 4(3) (conversion of firearms).	Schedule 6, column 4.	5 years.	7 years.
Offences under section 5(1) (possessing or distributing prohibited weapons or ammunition).	Schedule 6, column 4.	5 years.	10 years.
Offences under section 5(1A) (possessing or distributing other prohibited weapons).	Schedule 6, column 4.	(a) On summary conviction, 3 months. (b) On conviction on indictment, 2 years.	(a) On summary conviction, 6 months. (b) On conviction on indictment, 10 years.
F277	**F277**	**F277**	**F277**
. . .	. . .	. . .	. . .
Offences under section 20(1) (trespassing with firearm other than air weapon in a building).	Schedule 6, column 4.	5 years.	7 years.
Offences under section 21(4) (contravention of provisions denying firearms to ex-prisoners and the like).	Schedule 6, column 4.	3 years.	5 years.
Offences under section 21(5) (supplying firearms to person denied them under section 21).	Schedule 6, column 4.	3 years.	5 years.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Offences under section 42 (failure to comply with instructions in firearm certificate when transferring firearm to person other than registered dealer; failure to report transaction to police).	Schedule 6, column 4.	3 years.	5 years.
FIREARMS (NORTHERN IRELAND) ORDER 1981 (SI 1981/155 (NI 2))			
Offences under Article 3(1) (possessing etc. firearms or ammunition without firearm certificate).	Schedule 2, column 4.	3 years.	5 years.
Offences under Article 4(1) (trading in firearms without being registered as a firearms dealer).	Schedule 2, column 4.	3 years.	5 years.
Offences under Article 4(2) (selling firearms to person without a certificate).	Schedule 2, column 4.	3 years.	5 years.
Offences under Article 4(3) (repairing, testing etc. firearm for person without a certificate).	Schedule 2, column 4.	3 years.	5 years.
Offences under Article 4(4) (falsifying certificate, etc., with view to acquisition of firearm).	Schedule 2, column 4.	3 years.	5 years.
Offences under Article 5(1) (shortening a shot gun).	Schedule 2, column 4.	5 years.	7 years.
Offences under Article 5(3) (conversion of firearms).	Schedule 2, column 4.	5 years.	7 years.
Offences under Article 6(1)	Schedule 2, column 4.	5 years.	10 years.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

(possessing or distributing prohibited weapons or ammunition).			
Offences under Article 6(1A) (possessing or distributing other prohibited weapons).	Schedule 2, column 4.	(a) On summary conviction, 3 months. (b) On conviction on indictment, 2 years.	(a) On summary conviction, 6 months. (b) On conviction on indictment, 10 years.
Offences under Article 22(5) (contravention of provisions denying firearms to ex-prisoners and the like).	Schedule 2, column 4.	3 years.	5 years.
Offences under Article 22(7) (supplying firearms to person denied them under Article 22).	Schedule 2, column 4.	3 years.	5 years.
Offences under Article 43 (failure to comply with instructions in firearm certificate when transferring firearm to person other than registered dealer; failure to report transaction to police).	Schedule 2, column 4.	3 years.	5 years.

Textual Amendments

F277 Sch. 8 Pt. 3 Table: entry relating to "offences under section 19" repealed (1.10.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 65, 66(2)(3), **Sch. 5**; S.I. 2007/2518, **art. 3(d)**

SCHEDULE 9

Section 168(1).

MINOR AMENDMENTS

Extent Information

E26 Sch. 9 does not extend to Scotland in so far as it relates to s. 17(1) of the Video Act 1984 see s. 172(16)

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Poaching: increase in penalties

1 (1) The [M195]Game Act 1831 shall be amended as follows.

(2) In section 30 (trespassing in search or pursuit of game)—

(a) for the words "level 1" there shall be substituted the words " level 3 "; and

(b) for the words "level 3" there shall be substituted the words " level 4 ".

(3) In section 32 (searching for or pursuing game with a gun and using violence, etc.), for the words "level 4" there shall be substituted the words " level 5 ".

(4) The [M196]Game (Scotland) Act 1832 shall be amended as follows.

(5) In section 1 (trespassing in search or pursuit of game)—

(a) for the words "level 1" there shall be substituted the words " level 3 "; and

(b) for the words "level 3" there shall be substituted the words " level 4 ".

(6) In section 6 (penalty for assaults on persons acting under the Act), for the words "level 1" there shall be substituted the words " level 3 ".

(7) The amendments made by this paragraph shall not apply to offences committed before this paragraph comes into force.

Marginal Citations
M195 1831 c. 32.
M196 1832 c. 68.

Sexual offences: procurement of women

2 In sections 2(1) and 3(1) of the [M197]Sexual Offences Act 1956 (procurement of women to have unlawful sexual intercourse by threats or false pretences), the word "unlawful" shall be omitted.

Marginal Citations
M197 1956 c. 69.

Electronic transmission of obscene material

3 In section 1(3) of the [M198]Obscene Publications Act 1959 (definition of publication for purposes of that Act), in paragraph (b), after the words "projects it" there shall be inserted the words " , or, where the matter is data stored electronically, transmits that data. ".

Marginal Citations
M198 1959 c. 66.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Poaching: forfeiture of vehicles

4 After section 4 of the [M199]Game Laws (Amendment) Act 1960 there shall be inserted the following section—

"**4A Forfeiture of vehicles.**

(1) Where a person is convicted of an offence under section thirty of the Game Act 1831 as one of five or more persons liable under that section and the court is satisfied that any vehicle belonging to him or in his possession or under his control at the relevant time has been used for the purpose of committing or facilitating the commission of the offence, the court may make an order for forfeiture under this subsection in respect of that vehicle.

(2) The court may make an order under subsection (1) above whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restriction on forfeiture in any enactment.

(3) Facilitating the commission of the offence shall be taken for the purposes of subsection (1) above to include the taking of any steps after it has been committed for the purpose of—

(a) avoiding apprehension or detection; or

(b) removing from the land any person or property connected with the offence.

(4) An order under subsection (1) above shall operate to deprive the offender of his rights , if any, in the vehicle to which it relates, and the vehicle shall (if not already in their possession) be taken into the possession of the police.

(5) Where any vehicle has been forfeited under subsection (1) above, a magistrates' court may, on application by a claimant of the vehicle, other than the offender from whom it was forfeited under subsection (1) above, make an order for delivery of the vehicle to the applicant if it appears to the court that he is the owner of the vehicle.

(6) No application shall be made under subsection (5) above by any claimant of the vehicle after the expiration of six months from the date on which an order in respect of the vehicle was made under subsection (1) above.

(7) No such application shall succeed unless the claimant satisfies the court either that he had not consented to the offender having possession of the vehicle or that he did not know, and had no reason to suspect, that the vehicle was likely to be used for a purpose mentioned in subsection (1) above.

(8) An order under subsection (5) above shall not affect the right of any person to take, within the period of six months from the date of an order under subsection (5) above, proceedings for the recovery of the vehicle from the person in possession of it in pursuance of the order, but on the expiration of that period the right shall cease.

(9) The Secretary of State may make regulations for the disposal of vehicles, and for the application of the proceeds of sale of vehicles, forfeited under subsection (1) above where no application by a claimant of the property under subsection (5) above has been made within the period specified in subsection (6) above or no such application has succeeded.

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(10) The regulations may also provide for the investment of money and the audit of accounts.

(11) The power to make regulations under subsection (9) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(12) In this section, "relevant time", in relation to a person convicted of an offence such as is mentioned in subsection (1) above, means the time when the vehicle was used for the purpose of committing or facilitating the commission of the offence, or the time of the issue of a summons in respect of the offence.".

Marginal Citations
M199 1960 c. 36.

Magistrates' courts' jurisdiction in cases involving children and young persons

5 In section 18 of the [M200]Children and Young Persons Act 1963 (jurisdiction of magistrates' courts in certain cases involving children and young persons)—

(a) in paragraph (a), for the words "the age of seventeen" there shall be substituted the words " the age of eighteen "; and

(b) in paragraph (b), for the words "the age of seventeen" there shall be substituted the words " the age of eighteen ".

Marginal Citations
M200 1963 c. 37.

Service of documents by first class post

6 (1) In section 9(8) of the [M201]Criminal Justice Act 1967 (which relates to the service of a written statement to be admitted as evidence in criminal proceedings)—

(a) in paragraph (c), after the word "service" there shall be inserted the words " or by first class post "; and

(b) in paragraph (d), after the word "service" there shall be inserted the words " or by first class post ".

[F278](2) . . . . . .

(3) In section 1 of the [M202]Road Traffic Offenders Act 1988 (which requires warning of prosecution for certain offences to be given), after subsection (1), there shall be inserted the following subsection—

"(1A) A notice required by this section to be served on any person may be served on that person—

(a) by delivering it to him;

(b) by addressing it to him and leaving it at his last known address; or

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(c) by sending it by registered post, recorded delivery service or first class post addressed to him at his last known address.".

Textual Amendments

F278 Sch. 9 para. 6(2) repealed (4.7.1996) by 1996 c. 25, ss. 74, 80, **Sch. 5**, Table 9, Note (with s. 78(1))

Marginal Citations

M201 1967 c. 80.
M202 1988 c. 53.

Transfers of proceedings

F279 7 . . . . . .

Textual Amendments

F279 Sch. 9 para. 7 repealed (4.7.1996) by 1996 c. 25, ss. 74, 80, **Sch. 5** Table (9), Note (with s. 78(1))

Offences aggravated by possession of firearms

8 In Schedule 1 to the M203Firearms Act 1968 (which lists the offences to which section 17(2) (possession of firearms when committing or being arrested for specified offences) relates)—

(a) in paragraph 4, after the word "Theft" there shall be inserted the word " robbery "; and

(b) after paragraph 5, there shall be inserted the following paragraphs—

"5A An offence under section 90(1) of the Criminal Justice Act 1991 (assaulting prisoner custody officer).

5B An offence under section 13(1) of the Criminal Justice and Public Order Act 1994 (assaulting secure training centre custody officer).".

Marginal Citations

M203 1968 c. 27.

Notice of proceedings

9 In section 34(2) of the M204Children and Young Persons Act 1969 (which requires notice of certain proceedings to be given to a probation officer), for the words "the age of seventeen" there shall be substituted the words " the age of eighteen ".

Marginal Citations

M204 1969 c. 54.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Treatment of mental condition of offenders placed on probation

F280 10 . . . . . .

Textual Amendments

F280 Sch. 9 para. 10 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. 1** (with Sch. 11 paras. 1, 2)

Rehabilitation of offenders placed on probation

11 (1) In section 5 of the M205Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences)—

(a) in Table A in subsection (2), in the entry relating to fines or other sentences subject to rehabilitation under that Act, after the words "subsections (3)" there shall be inserted the words " , (4A) ".

(b) in subsection (4), the words "or placed on probation," and "or probation order" shall be omitted; and

(c) after subsection (4), there shall be inserted the following subsection—

"(4A) Where in respect of a conviction a person was placed on probation, the rehabilitation period applicable to the sentence shall be—

(a) in the case of a person aged eighteen years or over at the date of his conviction, five years from the date of conviction;

(b) in the case of a person aged under the age of eighteen years at the date of his conviction, two and a half years from the date of conviction or a period beginning with the date of conviction and ending when the probation order ceases or ceased to have effect, whichever is the longer.".

(2) The amendments made by this paragraph shall apply only in relation to persons placed on probation after the date on which this paragraph comes into force.

Marginal Citations

M205 1974 c. 53.

Transfers of proceedings

12 In section 3 of the M206Bail Act 1976 (general provisions)—

(a) in subsection (8A) (inserted by paragraph 9 of Schedule 2 to the M207Criminal Justice Act 1987), for the words "section 4 of the Criminal Justice Act 1987" there shall be substituted the words " a relevant transfer provision "; and

(b) after subsection (9) there shall be inserted the following subsection—

"(10) In subsection (8A) above "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.".

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Marginal Citations
M206 1976 c. 63.
M207 1987 c. 38.

Anonymity of victims of certain offences

13 In section 4 of the [M208]Sexual Offences (Amendment) Act 1976 (anonymity of victims in rape etc. cases), after subsection (6) there shall be inserted the following subsection—

"(6A) For the purposes of this section, where it is alleged or there is an accusation that an offence of incitement to rape or conspiracy to rape has been committed, the person who is alleged to have been the intended victim of the rape shall be regarded as the alleged victim of the incitement or conspiracy or, in the case of an accusation, as the complainant.".

Marginal Citations
M208 1976 c. 82.

Execution of warrants for non-payment

14 (1) In section 38A(6) of the [M209]Criminal Law Act 1977 (execution of warrants for imprisonment for non-payment of fine), for the words "the age of 17 years" there shall be substituted the words " the age of 18 years ".

(2) In section 38B(6) of the Criminal Law Act 1977 (execution of warrants for commitment for non-payment of due sum), for the words "the age of 17 years" there shall be substituted the words " the age of 18 years ".

Marginal Citations
M209 1977 c. 45.

Committals for sentence

[F281]15 . . . . . .

Textual Amendments
F281 Sch. 9 para. 15 repealed (25.8.2000) c. 6, ss. 165, 168, Sch. 12 Pt. 1 (with Sch. 11 paras. 1, 2)

Conditional or absolute discharge: appeal to Crown Court

[F282]16 . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F282 Sch. 9 para. 16 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. 1** (with Sch. 11 paras. 1, 2)

Transfers of proceedings

17 In section 76 of the [M210][F66]Senior Courts Act 1981] (alteration by Crown Court of place of trial) (as amended by paragraph 10 of Schedule 2 to the Criminal Justice Act 1987)—

(a) in subsection (1), for the words "section 4 of the Criminal Justice Act 1987" there shall be substituted the words " a relevant transfer provision ";

(b) in subsection (3), for the words "section 4 of the Criminal Justice Act 1987" there shall be substituted the words " a relevant transfer provision "; and

(c) after subsection (4) there shall be inserted the following subsection—

"(5) In this section "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.".

The amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 51 of Schedule 4 to this Act.

Textual Amendments

F66 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

Marginal Citations

M210 1981 c. 54.

Transfers of proceedings

18 In section 77 of the [F66]Senior Courts Act 1981 (date of trial) (as amended by paragraph 11 of Schedule 2 to the [M211]Criminal Justice Act 1987)—

(a) in subsection (1), for the words "section 4 of the Criminal Justice Act 1987" there shall be substituted the words " a relevant transfer provision ";

(b) in subsection (2), after the words "committed by a magistrates' court" there shall be inserted the words " or in respect of whom a notice of transfer under a relevant transfer provision has been given ";

(c) in subsection (3), after the words "committal for trial" there shall be inserted the words " or of a notice of transfer "; and

(d) after subsection (3), there shall be inserted the following subsection—

"(4) In this section "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.".

The amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F66 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

Marginal Citations

M211 1987 c. 38.

Transfers of proceedings

19 In section 81 of the **[**F66Senior Courts Act 1981**]** (bail by Crown Court)—

(a) in subsection (1)(a) (as amended by paragraph 12 of Schedule 2 to the Criminal Justice Act 1987), for the words "section 4 of the Criminal Justice Act 1987" there shall be substituted the words " a relevant transfer provision "; and

(b) after subsection (6), there shall be inserted the following subsection—

"(7) In subsection (1) above "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.".

Textual Amendments

F66 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

Electronic transmission of obscene material (Scotland)

20 In section 51(8) of the M212Civic Government (Scotland) Act 1982, after the words "otherwise reproducing" there shall be inserted the words " , or, where the material is data stored electronically, transmitting that data ".

Marginal Citations

M212 1982 c. 45.

Fines for breach of attendance centre orders or rules

F283 21 . . . . . .

Textual Amendments

F283 Sch. 9 para. 21 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. 1** (with Sch. 11 paras. 1, 2)

Video recordings

22 In section 1 of the M213Video Recordings Act 1984 (which provides for the interpretation of, among other terms, "video work" and "video recordings")—

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(a) in subsection (2), in paragraph (a), the word "or" before the words "magnetic tape" shall be omitted and after those words there shall be inserted the words " or any other device capable of storing data electronically "; and

(b) in subsection (3), the word "or" before the words "magnetic tape" shall be omitted and after those words there shall be inserted the words " or any other device capable of storing data electronically ".

Marginal Citations
M213 1984 c. 39.

Standard period of validity of search warrants

23 In the following enactments there shall be omitted the words from "within" to "warrant" (which prescribe the period of validity of warrants under those enactments for which section 16(3) of the [M214]Police and Criminal Evidence Act 1984 prescribes a standard period of one month), namely—

(a) section 4(2) of the [M215]Protection of Children Act 1978; and

(b) section 17(1) of the Video Recordings Act 1984.

Extent Information
E27 Sch. 9 para. 23(b) does not extend to Scotland.

Marginal Citations
M214 1984 c. 60.
M215 1978 c. 37.

Transfers of proceedings

24 In section 62(10) of the [M216]Police and Criminal Evidence Act 1984 (power of court to draw inferences from failure of accused to consent to provide intimate sample), after paragraph (a) there shall be inserted the following paragraph—

"(aa) a judge, in deciding whether to grant an application made by the accused under—

(i) section 6 of the Criminal Justice Act 1987 (application for dismissal of charge of serious fraud in respect of which notice of transfer has been given under section 4 of that Act); or

(ii) paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (application for dismissal of charge of violent or sexual offence involving child in respect of which notice of transfer has been given under section 53 of that Act); and".

Marginal Citations
M216 1984 c. 39.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Transfers of proceedings

25 In section 16 of the [M217]Prosecution of Offences Act 1985 (defence costs)—

(a) in subsection (2)(aa) (inserted by paragraph 14 of Schedule 2 to the [M218]Criminal Justice Act 1987), for the words "section 4 of the Criminal Justice Act 1987" there shall be substituted the words " a relevant transfer provision "; and

(b) after subsection (11) there shall be inserted the following subsection—

"(12) In subsection (2)(aa) "relevant transfer provision" means—

(a) section 4 of the Criminal Justice Act 1987, or

(b) section 53 of the Criminal Justice Act 1991.".

Marginal Citations

M217 1985 c. 23.

M218 1987 c. 38.

Award of costs against accused

26 In section 18(5) of the Prosecution of Offences Act 1985 (award of costs against accused), for the words "the age of seventeen" there shall be substituted the words " the age of eighteen ".

Transfers of proceedings

27 In section 22 of the [M219]Prosecution of Offences Act 1985 (time limits for preliminary stages of criminal proceedings), in subsection (11), in the definition of "custody of the Crown Court", after paragraph (c) (inserted by paragraph 104 of Schedule 15 to the [M220]Criminal Justice Act 1988), there shall be inserted the following paragraph, preceded by the word ", or", namely—

"(d) paragraph 2(1)(a) of Schedule 6 to the Criminal Justice Act 1991 (custody after transfer order in certain cases involving children).".

Marginal Citations

M219 1985 c. 23.

M220 1988 c. 38.

Confiscation orders in drug trafficking cases: variation of sentences

[F284]28 . . . . . .

Textual Amendments

F284 Sch. 9 para. 28 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Transfer of fraud cases

29 In section 4 of the [M221]Criminal Justice Act 1987 (transfer of certain fraud cases to Crown Court), in subsection (1)(b)(ii), for the words "seriousness and complexity" there shall be substituted the words " seriousness or complexity ".

Marginal Citations
M221 1987 c. 38

Fraud cases: preparatory hearings

30 In section 7 of the Criminal Justice Act 1987 (preparatory hearings for certain fraud cases), in subsection (1), for the words "seriousness and complexity" there shall be substituted the words " seriousness or complexity ".

Transfers of proceedings

31 [F285] . . . . . .

Textual Amendments
F285 Sch. 9 para. 31 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 6**; S.I. 2005/950, **art. 2**, Sch. 1 paras. 27, 44(3) (subject to art. 2(2), Sch. 2) (as amended by S.I. 2005/2122, art. 2)

Evidence through television links

32 In section 32 of the Criminal Justice Act 1988 (evidence through television links), in subsection (3B) (inserted by section 55(4) of the [M222]Criminal Justice Act 1991), for the words "subsection (3) above" there shall be substituted the words " subsection (3A) above ".

Marginal Citations
M222 1991 c. 53.

Competence of children

[F286]33 . . . . . .

Textual Amendments
F286 Sch. 9 para. 33 repealed (24.7.2002) by 1999 c. 23, s. 67, **Sch. 6** (with Sch. 7 para. 5(2)); S.I. 2002/1739, **art. 2(g)(v)**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Reviews of sentencing

34 In section 35 of the [M223]Criminal Justice Act 1988 (kinds of case referable for review of sentence)—

(a) in subsection (3), for the words following "case" there shall be substituted the following words—

"—

(a) of a description specified in an order under this section; or

(b) in which sentence is passed on a person—

(i) for an offence triable only on indictment; or

(ii) for an offence of a description specified in an order under this section"; and

(b) in subsection (4), after the word "case", there shall be inserted the words " of a description specified in the order or to any case ".

Marginal Citations
M223 1988 c. 33.

Assaulting prisoner custody officer triable with indictable offence

35 In section 40(3) of the [M224]Criminal Justice Act 1988 (summary offences triable with indictable offences), after paragraph (a), there shall be inserted the following paragraphs—

"(aa) an offence under section 90(1) of the Criminal Justice Act 1991 (assaulting a prisoner custody officer);

(ab) an offence under section 13(1) of the Criminal Justice and Public Order Act 1994 (assaulting a secure training centre custody officer)".

Marginal Citations
M224 1988 c. 33.

Confiscation orders: variation of sentence

36 In section 72A of the [M225]Criminal Justice Act 1988 (inserted by section 28 of the [M226]Criminal Justice Act 1993) (power of court to postpone determinations required before a confiscation order can be made), after subsection (9) there shall be inserted the following subsection—

"(9A) Where the court has sentenced the defendant under subsection (7) above during the specified period it may, after the end of that period, vary the sentence by imposing a fine or making any such order as is mentioned in section 72(5)(b) or (c) above so long as it does so within a period corresponding to that allowed by section 47(2) or (3) of the **[**[F66]Senior Courts Act 1981**]** (time allowed for varying a sentence) but beginning with the end of the specified period.".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F66 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

Marginal Citations

M225 1988 c. 33.
M226 1993 c. 36.

Extradition from the United Kingdom

37 (1) The [M227]Extradition Act 1989 shall be amended as follows.

(2) In section 2(4) (law of, and conduct in, parts or dependencies of foreign States)—

(a) for the words "subsections (1) to (3) above" there shall be substituted the words " this Act, except Schedule 1 "; and

(b) at the end there shall be inserted the following paragraph preceded by the word "; but"—

"(d) reference shall be made to the law of the colony or dependency of a foreign state or of a designated Commonwealth country, and not (where different) to the law of the foreign state or Commonwealth country, to determine the level of punishment applicable to conduct in that colony or dependency.".

(3) In section 7 (procedure for making and implementing extradition requests)—

(a) in subsection (1)—

(i) after the word "made" there shall be inserted the words " to the Secretary of State ";

(ii) for paragraph (a) there shall be substituted the following paragraph—

"(a) by—

(i) an authority in a foreign state which appears to the Secretary of State to have the function of making extradition requests in that foreign state, or

(ii) some person recognised by the Secretary of State as a diplomatic or consular representative of a foreign state; or" and

(iii) after paragraph (b), there shall be inserted the words— " and an extradition request may be made by facsimile transmission and an authority to proceed issued without waiting to receive the original ";

(b) in subsection (2)—

(i) in paragraph (c), after the word "warrant" there shall be inserted the words " or a duly authenticated copy of a warrant "; and

(ii) in paragraph (d), after the word "certificate" there shall be inserted the words " or a duly authenticated copy of a certificate "; and

(c) after subsection (6), there shall be inserted the following subsection—

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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"(7) Where an extradition request is made by facsimile transmission this Act (including subsection (2) above) shall have effect as if the foreign documents so sent were the originals used to make the transmission and receivable in evidence accordingly.".

Commencement Information

I17 Sch. 9 para. 37 wholly in force at 10.4.1995; s. 37 not in force at Royal Assent see s. 172; s. 37, save for s. 37(3), in force at 3.2.1995 by S.I. 1995/127, art. 2(1), **Sch. 1** APPENDIX A; s. 37(3) in force at 10.4.1995 by S.I. 1995/721, art. 2, **Sch.**

Marginal Citations

M227 1989 c. 33.

PROSPECTIVE

Remands and committals of young persons to secure accommodation

F287 38 . . . . . .

Textual Amendments

F287 Sch. 9 para. 38 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 35**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

Non-intimate samples: samples of hair

39 In Article 63 of the M228 Police and Criminal Evidence (Northern Ireland) Order 1989 (regulation of taking of non-intimate samples), at the end, there shall be inserted the following paragraph—

"(10) Where a sample of hair other than pubic hair is to be taken the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary (in point of quantity or quality) for the purpose of enabling information to be produced by means of analysis used or to be used in relation to the sample.".

Marginal Citations

M228 S.I. 1989/1341 (N.I. 12).

Pre-sentence reports

F288 40 . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F288 Sch. 9 para 40 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Curfew orders

F289 41 . . . . . .

Textual Amendments

F289 Sch. 9 para. 41 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Fines

F290 42 . . . . . .

Textual Amendments

F290 Sch. 9 para. 42 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

False statements as to financial circumstances

43 After section 20 of the Criminal Justice Act 1991 there shall be inserted the following section—

"**20A False statements as to financial circumstances.**

(1) A person who is charged with an offence who, in furnishing a statement of his financial circumstances in response to an official request—

(a) makes a statement which he knows to be false in a material particular;

(b) recklessly furnishes a statement which is false in a material particular; or

(c) knowingly fails to disclose any material fact,

shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale or both.

(2) For the purposes of this section an official request is a request which—

(a) is made by the clerk of the magistrates' court or the appropriate officer of the Crown Court, as the case may be; and

(b) is expressed to be made for informing the court, in the event of his being convicted, of his financial circumstances for the purpose of determining the amount of any fine the court may impose.

(3) Proceedings in respect of an offence under this section may, notwithstanding anything in section 127(1) of the 1980 Act (limitation of time), be commenced at any time within two years from the date of the commission of

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the offence or within six months from its first discovery by the prosecutor, whichever period expires the earlier.".

Effect of previous probation orders and discharges

F291 44 . . . . . .

Textual Amendments

F291 Sch. 9 para. 44 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Sexual offences

F292 45 . . . . . .

Textual Amendments

F292 Sch. 9 para. 45 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Discretionary life prisoners

46 (1) In section 34 of the M229 Criminal Justice Act 1991 (duty to release discretionary life prisoners after they have served the relevant part of their sentence and the Parole Board has directed their release)—

(a) in subsection (6), for the words after "sentence" there shall be substituted the following words—

"—

(a) account shall be taken of any corresponding relevant period; but

(b) no account shall be taken of any time during which the prisoner was unlawfully at large within the meaning of section 49 of the Prison Act 1952 ("the 1952 Act").; and

(b) after that subsection, there shall be inserted the following subsection-

"(6A) In subsection (6)(a) above, "corresponding relevant period" means the period corresponding to the period by which a determinate sentence of imprisonment imposed on the offender would fall to be reduced under section 67 of the Criminal Justice Act 1967 (reduction of sentences to take account of police detention or remands in custody).".

(2) In paragraph 9(2) of Schedule 12 to that Act (application of early release provisions of the Act to existing life prisoners), after paragraph (b) there shall be inserted the following paragraph, preceded by the word "and"—

"(c) in section 34 of this Act, paragraph (a) of subsection (6) and subsection (6A) were omitted.".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Marginal Citations
M229 1991 c. 53.

Committals for sentence

F293 47 . . . . . .

Textual Amendments
F293 Sch. 9 para. 47 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Extradited persons: sentence of imprisonment to reflect custody

48 (1) In section 47 of the Criminal Justice Act 1991 (computation of sentences of imprisonment of persons extradited to United Kingdom), in subsection (4), in the definition of "extradited to the United Kingdom", after paragraph (iv), there shall be inserted the following paragraph, preceded by the word "or"—

"(v) in pursuance of arrangements with a foreign state in respect of which an Order in Council under section 2 of the Extradition Act 1870 is in force;".

(2) In each of sections 218(3) and 431(3) of the M230 Criminal Procedure (Scotland) Act 1975 (corresponding provisions for Scotland), after paragraph (c) there shall be inserted the following paragraph—

"(cc) in pursuance of arrangements with a foreign state in respect of which an Order in Council under section 2 of the Extradition Act 1870 is in force;".

Marginal Citations
M230 1975 c. 21.

Transfers of proceedings

49 In section 53 of the M231 Criminal Justice Act 1991 (notices of transfer in certain cases involving children)—

(a) in subsection (1), for the words "served" and "on" there shall be substituted the words " given " and " to ";

(b) in subsection (2), for the word "served" there shall be substituted the word " given ";

(c) in subsection (3), for the word "service" there shall be substituted the word " giving "; and

(d) in subsection (4), for the word "serve" there shall be substituted the word " give ".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Marginal Citations
M231 1991 c. 53.

Community sentences: binding over of parent or guardian

F294 50 . . . . . .

Textual Amendments
F294 Sch. 9 para. 50 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Confiscation orders in terrorist-related activities cases: variation of sentences

F295 51 . . . . . .

Textual Amendments
F295 Sch. 9 para. 51 repealed (25.8.1996) by 1996 c. 22, ss. 62(1), 63(7), **Sch. 7 Pt. I**

Anonymity of victims of certain offences

52 (1) The M232 Sexual Offences (Amendment) Act 1992 shall be amended as follows.

(2) In section 2(1) (offences to which the Act applies), after paragraph (e) there shall be inserted the following paragraphs—

"(f) any conspiracy to commit any of those offences;

(g) any incitement of another to commit any of those offences.".

(3) In section 6 (interpretation)—

(a) after subsection (2) there shall be inserted the following subsection—

"(2A) For the purposes of this Act, where it is alleged or there is an accusation that an offence of conspiracy or incitement of another to commit an offence mentioned in section 2(1)(a) to (d) has been committed, the person against whom the substantive offence is alleged to have been intended to be committed shall be regarded as the person against whom the conspiracy or incitement is alleged to have been committed.

In this subsection, "the substantive offence" means the offence to which the alleged conspiracy or incitement related."; and

(b) in subsection (3), after the words "references in" there shall be inserted the words " subsection (2A) and in ".

Marginal Citations
M232 1992 c. 34.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Application of 1993 Act powers to pre-commencement offences

53 Section 78(6) of the [M233]Criminal Justice Act 1993 (application of Act to pre-commencement offences) shall have effect, and be deemed always to have had effect, with the substitution, for the words from "or the powers" to the end, of the words "and, where it confers a power on the court, shall not apply in proceedings instituted before the coming into force of that provision.".

Marginal Citations
M233 1993 c. 36.

SCHEDULE 10

Section 168(2).

CONSEQUENTIAL AMENDMENTS

Extent Information
E28 The provisions of Sch. 10 are co-extensive with the enactments they affect, see s. 172(16)

Bail: exclusion in homicide and rape cases

1 In section 2 of the [M234]Habeas Corpus Act 1679 (bail for persons released from custody under habeas corpus while awaiting trial), after the words "brought as aforesaid shall" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Marginal Citations
M234 1679 c. 2.

Evidence of accused in criminal proceedings

2 In section 1 of the [M235]Criminal Evidence Act 1898 (competency of accused to give evidence in criminal proceedings), proviso (b) shall be omitted.

Marginal Citations
M235 1898 c. 36.

Evidence of accused in criminal proceedings

3 In section 1 of the [M236]Criminal Evidence Act (Northern Ireland) 1923 (competency of accused to give evidence in criminal proceedings)—

(a) after the words "Provided as follows:—" there shall be inserted the following proviso—

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"(a) A person so charged shall not be called as a witness in pursuance of this Act except upon his own application;";

(b) proviso (b) shall be omitted.

Marginal Citations
M236 1923 c. 9 (N.I.).

Responsibility for fine for breach of requirements of secure training order

F296 4 . . . . . .

Textual Amendments
F296 Sch. 10 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Bail: exclusion in homicide and rape cases

F297 5 . . . . . .

Textual Amendments
F297 Sch. 10 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Bail: exclusion in homicide or rape cases

6 In section 37(1) of the M237 Criminal Justice Act 1948 (power of High Court to grant bail on case stated or application for certiorari)—

(a) in paragraph (b), after the word "may" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, "; and

(b) in paragraph (d), after the word "may" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Marginal Citations
M237 1948 c. 58.

Modernisation of "servant" in Prison Act

7 In section 3(1) of the M238 Prison Act 1952 (officers and servants at prisons), for the word "servants" there shall be substituted the words " employ such other persons ".

Marginal Citations
M238 1952 c. 52.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Use of young offender institutions as secure training centres

8 In section 37(4) of the Prison Act 1952 (prisons not deemed closed where used as remand centres etc.), at the end, there shall be inserted the words " or secure training centre ".

Young offenders absconding from secure training centres

9 (1) Section 49 of the [M239]Prison Act 1952 (persons unlawfully at large) shall be amended as follows.

(2) In subsection (1), after the words "young offenders institution" there shall be inserted the words " or a secure training centre ".

(3) In subsection (2), for the words between "detained in a" and "is unlawfully" there shall be substituted the words " young offenders institution or in a secure training centre ".

(4) In subsection (2), in proviso (a), for the words after "prison" there shall be substituted the words " remand centre, young offenders institution or secure training centre ".

Marginal Citations
M239 1952 c. 52.

Bail: exclusion in homicide and rape cases

10 In section 4(2) of the [M240]Administration of Justice Act 1960 (power of High Court to grant bail to persons appealing to the House of Lords), after the words "Divisional Court shall" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Marginal Citations
M240 1960 c. 65.

Young offenders: application of prison rules

11 In section 23(4) of the [M241]Criminal Justice Act 1961 (which applies provisions relating to prison rules to other institutions), before the words "and remand centres" there shall be inserted the words " secure training centres ".

Marginal Citations
M241 1961 c. 39.

Young offenders: transfer, supervision and recall within British Islands

12 (1) Part III of the [M242]Criminal Justice Act 1961 (transfer, supervision and recall within British Islands) shall have effect with the following amendments.

(2) In section 29—

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(a) in subsection (1), for the words from "youth custody centre" to "young offenders institution" there shall be substituted the words " or institution for young offenders to which this subsection applies ";

(b) after subsection (2), there shall be inserted the following subsection—

"(2A) The institutions for young offenders to which subsection (1) above applies are the following: a remand centre, young offenders institution or secure training centre and, in Northern Ireland, a young offenders centre.".

(3) In section 30—

(a) in subsection (3), for the words between "prison" and "in any part" there shall be substituted the words " or institution for young offenders to which this subsection applies ";

(b) after subsection (3), there shall be inserted the following subsection—

"(3A) The institutions for young offenders to which subsection (3) above applies are the following: a young offenders institution or secure training centre and, in Northern Ireland, a young offenders centre.".

(4) In section 32, in subsection (2), after paragraph (k), there shall be inserted the following paragraph—

"(l) sections 1 and 3 of the Criminal Justice and Public Order Act 1994.".

(5) In section 38(3), for paragraph (a), there shall be substituted the following paragraph—

"(a) the expression "imprisonment or detention" means imprisonment, custody for life, detention in a young offenders institution or in a secure training centre or detention under an equivalent sentence passed by a court in the Channel Islands or the Isle of Man;".

Marginal Citations
M242 1961 c. 39.

Payment of damages by police authority

F298 13 . . . . . .

Textual Amendments
F298 Sch. 10 para. 13 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**

Cross-border enforcement: extension of protection

F299 14 . . . . . .

Textual Amendments
F299 Sch. 10 para. 14 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Bail: exclusion in homicide and rape cases

15 F300 . . . . . .

Textual Amendments

F300 Sch. 10 para. 15 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 2**; S.I. 2004/829, **art. 2(2)(I)(ii)**, (subject to art. 2(3)-(6))

Young offenders: detention under secure training order

16 Section 67 of the M243Criminal Justice Act 1967 (computation of sentences of imprisonment or detention passed in England and Wales) shall be amended by the insertion in subsection (5), after paragraph (b), of the following paragraph—

"(c) to secure training orders under section 1 of the Criminal Justice and Public Order Act 1994;".

Marginal Citations

M243 1967 c. 80.

Payment of damages by Scottish police authority

F301 17 . . . . . .

Textual Amendments

F301 Sch. 10 para. 17 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**

Assaults on constables etc.

18 In section 41 of the Police (Scotland) Act 1967 (assaults on constables etc.), after subsection (2), there shall be inserted the following subsection—

"(3) This section also applies to a constable who is a member of a police force maintained in England and Wales or in Northern Ireland when he is executing a warrant or otherwise acting in Scotland by virtue of any enactment conferring powers on him in Scotland.".

Bail: exclusion in homicide and rape cases

19 In section 8(2)(a) of the M244Criminal Appeal Act 1968 (powers of Court of Appeal on retrial), after the words "custody or" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Marginal Citations

M244 1968 c. 19.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Bail: exclusion in homicide and rape cases

20 In section 11(5) of the Criminal Appeal Act 1968 (powers of Court of Appeal on quashing interim hospital order), after the word "may" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Bail: exclusion in homicide and rape cases

21 In section 16(3)(b) of the Criminal Appeal Act 1968 (powers of Court of Appeal on allowing an appeal against a finding that a person is under a disability), after the word "may" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Bail: exclusion in homicide and rape cases

22 In section 19(1) of the Criminal Appeal Act 1968 (power of Court of Appeal to grant bail), after the word "may", there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Bail: exclusion in homicide and rape cases

23 In section 36 of the Criminal Appeal Act 1968 (power of Court of Appeal to grant bail on appeal by defendant), after the word "may" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994 ".

Young offenders: possession of firearms

24 (1) The [M245]Firearms Act 1968 shall be amended as follows.

(2) In section 21 (possession of firearms by persons previously convicted of crime)—

(a) in subsection (2), after the word "Scotland" there shall be inserted the words " or who has been subject to a secure training order "; and

(b) for subsection (2A) there shall be substituted—

"(2A) For the purposes of subsection (2) above, "the date of his release" means—

(a) in the case of a person sentenced to imprisonment with an order under section 47(1) of the Criminal Law Act 1977 (prison sentence partly served and partly suspended), the date on which he completes service of so much of the sentence as was by that order required to be served in prison;

(b) in the case of a person who has been subject to a secure training order—

(i) the date on which he is released from detention under the order;

(ii) the date on which he is released from detention ordered under section 4 of the Criminal Justice and Public Order Act 1994; or

(iii) the date halfway through the total period specified by the court in making the order,

whichever is the later.".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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 52(1) (forfeiture and disposal of firearms), in paragraph (a), after the word "Scotland" there shall be inserted the words " or is subject to a secure training order ".

Marginal Citations
M245 1968 c. 27.

Cross-border enforcement: extension of protection

25 In section 7 of the [M246]Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (assaults on, and obstruction of, constables), after subsection (3), there shall be inserted the following subsection—

"(4) This section also applies to a constable who is a member of a police force maintained in England and Wales or Scotland when he is executing a warrant or otherwise acting in Northern Ireland by virtue of any statutory provision conferring powers on him in Northern Ireland.".

Marginal Citations
M246 1968 c. 28 (N.I.).

Sexual offences: male rape

26 [F302] . . . . . .

Textual Amendments
F302 Sch. 10 para. 26 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141, Sch. 6 para. 32(4), **Sch. 7**; S.I. 2004/874, **art. 2**

Payment of damages by Police Authority for Northern Ireland

[F303]27 . . . . . .

Textual Amendments
F303 Sch. 10 para. 27 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(4), **Sch. 9 Pt. I**

Jury service: penalty for serving when not qualified

28 In section 20(5) of the [M247]Juries Act 1974 (offences in connection with jury service), at the end of paragraph (d) there shall be inserted "; or

(e) knowing that he is not qualified for jury service by reason of section 40 of the Criminal Justice and Public Order Act 1994, serves on a jury,".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Marginal Citations
M247 1974 c. 23.

Custody officers: ineligibility for jury service

29 F304 . . . . . .

Textual Amendments
F304 Sch. 10 para. 29 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 10**; S.I. 2004/829, **art. 2(2)(I)(iv)**

Rehabilitation of offenders subject to secure training orders

30 In section 5(6) of the M248Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences), after paragraph (c), there shall be inserted the following paragraph, preceded by the word "or"—

"(d) a secure training order under section 1 of the Criminal Justice and Public Order Act 1994;".

Marginal Citations
M248 1974 c. 53.

Prisoner custody officers: ineligibility for jury service

F30531 . . . . . .

Textual Amendments
F305 Sch. 10 para. 31 repealed (31.7.1996) by S.I. 1996/1141 (N.I. 6), art. 32(3), **Sch. 5**; S.R. 1996/267, **rule 2**

Bail: exclusion in homicide and rape cases

32 In section 4 of the M249Bail Act 1976 (entitlement to bail), after subsection (7), there shall be inserted the following subsection—

"(8) This section is subject to section 25 of the Criminal Justice and Public Order Act 1994 (exclusion of bail in cases of homicide and rape).".

Marginal Citations
M249 1976 c. 63.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Police bail: variation by magistrates

33 In section 4(2) of the [M250]Bail Act 1976 (occasions for implementation of right to bail), in paragraph (b), after the words "for bail" there shall be inserted the words " or for a variation of the conditions of bail ".

Marginal Citations
M250 1976 c.63.

Bail: no right for persons offending while on bail

34 **[**[F306]In Part III of Schedule 1 to the Bail Act 1976, in paragraph 2, at the end, there shall be inserted the words " ; and so as respects the reference to an offence committed by a person on bail in relation to any period before the coming into force of paragraph 2A of Part 1 of this Schedule. ".**]**

Textual Amendments
F306 Sch. 10 para. 34 repealed (3.10.2007 for N.I., otherwise prosp.) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, **Sch. 37 Pt. 2**

Sexual offences: male rape

35 (1) The [M251]Sexual Offences (Amendment) Act 1976 shall be amended as follows.

(2) [F307] . . . . . .

(3) [F308] . . . . . .

(4) [F309] . . . . . .

Textual Amendments
F307 Sch. 10 para. 35(2) repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141, Sch. 6 para. 32(4), **Sch. 7**; S.I. 2004/874, **art. 2**
F308 Sch. 10 para. 35(3) repealed (4.12.2000 for certain purposes, otherwise 6.12.2006) by 1999 c. 23, s. 67, Sch. 6 (with Sch. 7 para. 5(2)); S.I. 2000/3075, art. 2(c)(iii) (with art. 3); S.I. 2006/2885, **art. 2(b)(viii)**
F309 Sch. 10 para. 35(4) repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141, Sch. 6 para. 32(4), **Sch. 7**; S.I. 2004/874, **art. 2**

Marginal Citations
M251 1976 c. 82.

Sexual offences: male rape

36 (1) Section 4 of the [M252]Sexual Offences (Amendment) Act 1976 (anonymity of complainants in rape etc. cases) shall be amended as follows.

(2) In subsection (1)—

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(a) in paragraph (a)—

(i) after the word "woman" in both places where it occurs there shall be inserted the words " or man ";

(ii) for the words "woman's name nor her address" there shall be substituted the words " name nor the address of the woman or man ";

(iii) after the words "of her" there shall be inserted the words " or him ";

(iv) for the words "her lifetime" there shall be substituted the words " that person's lifetime "; and

(v) for the words "identify her" there shall be substituted the words " identify that person "; and

(b) in paragraph (b)—

(i) after the word "woman" there shall be inserted the words " or man "; and

(ii) for the words "her lifetime" there shall be substituted the words " that person's lifetime ".

(3) In subsection (5A), after the word "woman" there shall be inserted the words " or man ".

(4) In subsection (5B), for the words "woman's peace or comfort" there shall be substituted the words " peace or comfort of the woman or man ".

(5) In subsection (6), in the definition of "complainant", after the word "woman" there shall be inserted the words " or man ".

Marginal Citations

M252 1976 c. 82.

Indecent photographs etc.

37 (1) The [M253]Protection of Children Act 1978 shall be amended as follows.

(2) In section 2(3), after the words "proceedings under this Act" there shall be inserted the words " relating to indecent photographs of children ".

(3) In section 4—

(a) in subsection (1), after the word "photograph" there shall be inserted the words " or pseudo-photograph "; and

(b) in subsection (2), after the word "photographs" there shall be inserted the words " or pseudo-photographs ".

[F310](4) . . . . . .

Textual Amendments

F310 Sch. 10 para. 37(4) repealed (1.4.2008) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 15 Pt. 4**; S.I. 2008/790, art. 2(e)

Marginal Citations

M253 1978 c. 37.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Indecent photographs etc. (Northern Ireland)

38 (1) The [M254]Protection of Children (Northern Ireland) Order 1978 shall be amended as follows.

(2) In Article 4(1)—

(a) after the word "photograph" there shall be inserted the words " or pseudo-photograph "; and

(b) after the word "photographs" there shall be inserted the words " or pseudo-photographs ".

[F311](3) . . . . . .

[F311](4) . . . . . .

(5) In Article 7(1), after the word "Order" there shall be inserted the words " relating to indecent photographs of children ".

Textual Amendments

F311 Sch. 10 para. 38(3)(4) repealed (1.4.2008) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 15 Pt. 4**; S.I. 2008/790, art. 2(e)

Marginal Citations

M254 S.I. 1978/1047 (N.I.17).

Secure training orders: absence of accused

39 In section 11(3) of the [M255]Magistrates' Courts Act 1980 (certain sentences and orders not to be made in absence of accused), after the word "make" there shall be inserted the words " a secure training order or ".

Marginal Citations

M255 1980 c. 43.

Procedure for young offenders in cases of grave crimes

40 In section 24(1)(a) of the Magistrates' Courts Act 1980 (exception to summary trial of children or young persons) the words "he has attained the age of 14 and" shall be omitted.

Bail: exclusion in homicide and rape cases

41 In section 29(4)(b) of the Magistrates' Courts Act 1980 (person under 18 remitted to youth court for trial), after the word "may" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Bail: exclusion in homicide and rape cases

[F312]42 . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F312 Sch. 10 para. 42 repealed (1.4.2000) by 1998 c. 37, s. 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3(c)**

Police bail

43 In section 43(1) of the Magistrates' Courts Act 1980 (bail under the [M256]Police and Criminal Evidence Act 1984), after the words "bail under" there shall be inserted the words " Part IV of ".

Marginal Citations

M256 1984 c. 60.

Bail: exclusion in homicide or rape cases

44 In section 113(1) of the Magistrates' Courts Act 1980 (power of magistrates' court to grant bail on appeal to Crown Court or by way of case stated), after the word "may" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Prisoner custody officers: ineligibility for jury service

45 In Part I of Schedule 1 to the [M257]Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (which makes ineligible for jury service persons connected with the administration of justice), in Group B, after paragraph (o) there shall be inserted the following paragraph—

"(oo) prisoner custody officers within the meaning of section 114(1) of the Criminal Justice and Public Order Act 1994;".

Marginal Citations

M257 1980 c. 55.

Young offenders: detention in the custody of a constable and others

46 In section 6 of the [M258]Imprisonment (Temporary Provisions) Act 1980 (detention in the custody of a constable)—

(a) in subsection (1), after the words "remand centre" there shall be inserted the words " secure training centre ";

(b) in subsection (2), after the words "remand centre" there shall be inserted the words " secure training centre "; and

(c) after the subsection (3) inserted by section 94 of this Act, there shall be inserted the following subsection—

"(4) Any reference in this section to a constable includes a reference to a custody officer (within the meaning of section 12 of the Criminal

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Justice and Public Order Act 1994) acting in pursuance of escort arrangements (within the meaning of Schedule 1 to that Act).".

Marginal Citations

M258 1980 c. 57.

Detention by constables and officers of a prison etc.: maximum period

F313 47 . . . . . .

Textual Amendments

F313 Sch. 10 para. 47 repealed (31.3.1996) by 1995 c. 20, s. 117(2), **Sch. 7 Pt. I**; S.I. 1996/517, **art. 3(2)** (subject to transitional provisions in arts. 4-6, Sch. 2)

Bail: exclusion in homicide and rape cases

48 In section 81(1) of the Senior Courts Act 1981**]** (power of Crown Court to grant bail), after the word "may", there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Textual Amendments

F66 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

Young offenders: legal representation

F314 49 . . . . . .

Textual Amendments

F314 Sch. 10 para. 49 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Young offenders: early release

50 In section 32 of the M259 Criminal Justice Act 1982 (early release by order of classes of prisoners and other persons), after subsection (7), there shall be inserted the following subsection—

"(7A) Subsections (1) and (4) above shall apply in relation to secure training centres and persons detained in such centres as they apply, by virtue of section 43(5) of the Prison Act 1952, to young offenders institutions and to persons detained in such institutions.".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Marginal Citations
M259 1982 c. 48.

Bail: exclusion in homicide and rape cases

51 In section 51(4) of the [M260]Mental Health Act 1983 (power of court to remit or release on bail detained person), after the words "above or" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Marginal Citations
M260 1983 c. 20.

Video recordings

52 (1) The [M261]Video Recordings Act 1984 shall be amended as follows.

(2) In section 13, after subsection (2), there shall be inserted the following subsection—

"(3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.".

(3) For section 15 there shall be substituted the following section—

"**15 Time limit for prosecutions.**

(1) No prosecution for an offence under this Act shall be brought after the expiry of the period of three years beginning with the date of the commission of the offence or one year beginning with the date of its discovery by the prosecutor, whichever is earlier.

(2) In Scotland, the reference in subsection (1) above to the date of discovery by the prosecutor shall be construed as a reference to the date on which evidence sufficient in the opinion of the Lord Advocate to warrant proceedings came to his knowledge.

(3) For the purposes of subsection (2) above—

(a) a certificate signed by the Lord Advocate or on his behalf and stating the date on which evidence came to his knowledge shall be conclusive evidence of that fact;

(b) a certificate purporting to be signed as mentioned in paragraph (a) above shall be presumed to be so signed unless the contrary is proved; and

(c) a prosecution shall be deemed to be brought on the date on which a warrant to apprehend or to cite the accused is granted provided that the warrant is executed without undue delay.".

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Marginal Citations
M261 1984 c. 39.

Interim possession order: power of entry

53 In section 17 of the [M262]Police and Criminal Evidence Act 1984 (police powers of entry to effect arrest etc.)—

(a) in subsection (1)(c), after sub-paragraph (iii), there shall be inserted the following sub-paragraph—

"(iv) section 76 of the Criminal Justice and Public Order Act 1994 (failure to comply with interim possession order);";

(b) in subsection (3), after the words "subsection (1)(c)(ii)" there shall be inserted the words " or (iv) ".

Marginal Citations
M262 1984 c. 60.

Bail: exclusion in homicide and rape cases

54 In section 38(1) of the Police and Criminal Evidence Act 1984 (duty of custody officer to release on bail or without bail after charge), after the word "shall" there shall be inserted the words " , subject to section 25 of the Criminal Justice and Public Order Act 1994, ".

Searches of persons detained at police stations

55 In section 54(1)(b) of the Police and Criminal Evidence Act 1984 (searches of persons detained at police stations), for the words "under section 47(5) above" there shall be substituted the words " , as a person falling within section 34(7), under section 37 above ".

Fingerprinting: speculative searches

56 In section 61 of the Police and Criminal Evidence Act 1984 (which regulates the taking of fingerprints)—

(a) after subsection (7) there shall be inserted the following subsection—

"(7A) If a person's fingerprints are taken at a police station, whether with or without the appropriate consent—

(a) before the fingerprints are taken, an officer shall inform him that they may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the fingerprints have been taken."; and

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(b) in subsection (8), after the word "them" there shall be inserted the words " and, in the case falling within subsection (7A) above, the fact referred to in paragraph (b) of that subsection ".

Intimate samples: speculative searches

57 In section 62 of the [M263]Police and Criminal Evidence Act 1984 (which regulates the taking of intimate body samples)—

(a) after subsection (7) there shall be inserted the following subsection—

"(7A) If an intimate sample is taken from a person at a police station—

(a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken."; and

(b) in subsection (8), after the words "subsection (7)" there shall be inserted the words " or (7A) ".

Marginal Citations
M263 1984 c.60.

Non-intimate samples: speculative searches

58 In section 63 of the [M264]Police and Criminal Evidence Act 1984 (which regulates the taking of non-intimate body samples)—

(a) after the subsection (8A) inserted by section 55 of this Act, there shall be inserted the following subsection—

"(8B) If a non-intimate sample is taken from a person at a police station, whether with or without the appropriate consent—

(a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken."; and

(b) in subsection (9), after the words "(8A)" there shall be inserted the words " or (8B) ".

Marginal Citations
M264 1984 c.60.

Sexual offences: male rape and buggery

59 [F315] . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F315 Sch. 10 para. 59 repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2005/3495, **art. 2(1)(u)(xxxvi)** (subject to art. 2)

Trespassory assemblies

60 In section 15(1) of the [M265]Public Order Act 1986 (delegation of functions), for "14" there shall be substituted " 14A ".

Marginal Citations

M265 1986 c. 64.

Inferences from accused's silence

61 (1) The [M266]Criminal Evidence (Northern Ireland) Order 1988 shall be amended as follows.

(2) In Article 3(1)(a), after the word "questioned" there shall be inserted the words " under caution ".

(3) In Article 4—

(a) in paragraph (1)—

(i) for the words "to (7)" there shall be substituted the words " and (4) ";

(ii) in sub-paragraph (b), the words "be called upon to" shall be omitted;

(iii) for the words from "if" onwards there shall be substituted the words " , at the conclusion of the evidence for the prosecution, his legal representative informs the court that the accused will give evidence or, where he is unrepresented, the court ascertains from him that he will give evidence ";

(b) for paragraphs (2) and (3) there shall be substituted the following paragraph—

"(2) Where this paragraph applies, the court shall, at the conclusion of the evidence for the prosecution, satisfy itself (in the case of proceedings on indictment conducted with a jury, in the presence of the jury) that the accused is aware that the stage has been reached at which evidence can be given for the defence and that he can, if he wishes, give evidence and that, if he chooses not to give evidence, or having been sworn, without good cause refuses to answer any question, it will be permissible for the court or jury to draw such inferences as appear proper from his failure to give evidence or his refusal, without good cause, to answer any question.";

(c) in paragraph (4)—

(i) at the beginning there shall be inserted the words " Where this paragraph applies, ";

(ii) in sub-paragraph (a), for the words "from the refusal as appear proper" there shall be substituted the words " as appear proper from

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the failure of the accused to give evidence or his refusal, without good cause, to answer any question ";

(d) in paragraph (5), for the words "refusal to be sworn" there shall be substituted the words " failure to do so "; and

(e) paragraphs (9) and (10) shall be omitted.

(4) In Article 5(1)(b), for the words "the constable" there shall be substituted the words " that or another constable investigating the case ".

(5) In Article 5(2), after sub-paragraph (a), for the word "and" there shall be substituted the following sub-paragraph—

"(aa) a judge, in deciding whether to grant an application made by the accused under Article 5 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (application for dismissal of charge where a case of fraud has been transferred from a magistrates' court to the Crown Court under Article 3 of that Order); and".

(6) In Article 5, after paragraph 3, there shall be inserted the following paragraph—

"(3A) This Article applies in relation to officers of customs and excise as it applies in relation to constables.".

(7) In Article 6(1)(b), for the words "the constable" there shall be substituted the words " that or another constable investigating the case ".

(8) In Article 6(2), after sub-paragraph (a), for the word "and" there shall be substituted the following sub-paragraph—

"(aa) a judge, in deciding whether to grant an application made by the accused under Article 5 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (application for dismissal of charge where a case of fraud has been transferred from a magistrates' court to the Crown Court under Article 3 of that Order); and".

(9) In Article 6, after paragraph 2, there shall be inserted the following paragraph—

"(2A) This Article applies in relation to officers of customs and excise as it applies in relation to constables.".

(10) In Article 6(3), for the words "do so" there shall be substituted the words " comply with the request ".

Marginal Citations

M266 S.I. 1988/1987 (N.I.20).

Samples: application to terrorist suspects

F316 62 (1) . . . . . .

(2) . . . . . .

(3) . . . . . .

(4) In consequence of the foregoing amendments—

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(a) in section 62 of the [M267]Police and Criminal Evidence Act 1984 (which regulates the taking of intimate body samples), at the end there shall be inserted the following subsection—

"(12) Nothing in this section, except as provided in section 15(11) and (12) of, and paragraph 7(6A) and (6B) of Schedule 5 to, the Prevention of Terrorism (Temporary Provisions) Act 1989, applies to a person arrested or detained under the terrorism provisions.";

(b) in section 63 of the Police and Criminal Evidence Act 1984 (which regulates the taking of non-intimate body samples), at the end there shall be inserted the following subsection—

"(10) Nothing in this section, except as provided in section 15(13) and (14) of, and paragraph 7(6C) and (6D) of Schedule 5 to, the Prevention of Terrorism (Temporary Provisions) Act 1989, applies to a person arrested or detained under the terrorism provisions."; and

(c) . . . . . .

(5) . . . . . .

Textual Amendments

F316 Sch. 10 para. 62 (excluding sub-para. (4)(a)(b)) repealed (19.2.2001) by 2000 c. 11, s. 125, **Sch. 16**, Pt. I; S.I. 2001/421, **art. 2**

Marginal Citations

M267 1984 c. 60.

Prevention of terrorism: consents for prosecutions etc.

[F317]63 . . . . . .

Textual Amendments

F317 Sch. 10 para. 63 repealed (19.2.2001) by 2000 c. 11 s. 125, Sch. 16, Pt. I: S.I.2001/421, **art. 2**

Young offenders: powers to search and to test for drugs

64 In section 19(4) of the [M268]Prisons (Scotland) Act 1989 (remand centres and young offenders institutions), for the words "and 41" there shall be substituted the words " 41, 41A and 41B ".

Commencement Information

I18 SCh. 10 para. 64 wholly in force at 3.2.1995; Sch. 10 para. 64 not in force at Royal Assent see s. 172; Sch. 10 para. 64 in force for specified purposes at 9.1.1995 by S.I. 1994/3192, art. 2, **Sch.**; Sch. 10 para. 64 so far as not already in force comes into force at 3.2.1995 by S.I. 1995/127, art. 2(1), **Sch. 1** ANNEX B

Marginal Citations

M268 1989 c. 45.

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

Non-appearance of accused: plea of guilty

F318 65 . . . . . .

Textual Amendments

F318 Sch. 10 para. 65 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Young offenders: secure training order a custodial sentence

F319 66 . . . . . .

Textual Amendments

F319 Sch. 10 para. 66 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Bail: exclusion in homicide and rape cases

F320 67 . . . . . .

Textual Amendments

F320 Sch. 10 para. 67 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Contracted out prisons: exclusion of search powers

68 F321 . . . . . .

Textual Amendments

F321 Sch. 10 para. 68 repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), {Sch. 5 Pt. 2)}; S.I. 2007/3001, **art. 2(1)(t)(iv)**

Testing prisoners for drugs: director's function

69 In section 87(4) of the Criminal Justice Act 1991 (certain functions as governor to be functions of director of contracted out prisons), after "13(1)" insert " 16A ".

The Parole Board

70 For Schedule 5 to the Criminal Justice Act 1991 (supplementary provisions about the Parole Board) there shall be substituted the following Schedule—

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"SCHEDULE 5

THE PAROLE BOARD: SUPPLEMENTARY PROVISIONS

Status and capacity

1 (1) The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board's property shall not be regarded as property of, or held on behalf of, the Crown.

(2) It shall be within the capacity of the Board as a statutory corporation to do such things and enter into such transactions as are incidental to or conducive to the discharge of its functions under Part II of this Act.

Membership

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

(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.

(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 re-appointment.

Payments to members

3 (1) The Board may pay to each member such remuneration and allowances as the Secretary of State may determine.

(2) The Board may pay or make provision for paying to or in respect of any member such sums by way of pension, allowances or gratuities as the Secretary of State may determine.

(3) If a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances that make it right that he should receive compensation, the Secretary of State may direct the Board to make to that person a payment of such amount as the Secretary of State may determine.

(4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

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Proceedings

4 (1) Subject to the provisions of section 32(5) of this Act, the arrangements relating to meetings of the Board shall be such as the Board may determine.

(2) The arrangements may provide for the discharge, under the general direction of the Board, of any of the Board's functions by a committee or by one or more of the members or employees of the Board.

(3) The validity of the proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Staff

5 (1) The Board may appoint such number of employees as it may determine.

(2) The remuneration and other conditions of service of the persons appointed under this paragraph shall be determined by the Board.

(3) Any determination under sub-paragraph (1) or (2) shall require the approval of the Secretary of State given with the consent of the Treasury.

(4) The Employers' Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the Board.

6 (1) Employment with the Board shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) at the end of the list of Other Bodies there shall be inserted— "Parole Board.".

(2) The Board shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.

Financial provisions

7 (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 sub-paragraph (1) shall be paid out of money provided by Parliament.

Authentication of Board's seal

8 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.

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Presumption of authenticity of documents issued by Board

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

Accounts and audit

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.

Reports

11 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.".

Bail: exclusion in homicide and rape cases

71 In Schedule 6 to the [M269]Criminal Justice Act 1991 (procedure on notice of transfer in certain cases involving children), in paragraph 2(1), after the word "1976" where it occurs first there shall be inserted the words " , section 25 of the Criminal Justice and Public Order Act 1994 ".

Marginal Citations
M269 1991 c. 53.

Probation officers for offenders subject to secure training orders

[F322]72 . . . . . .

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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

F322 Sch. 10 para. 72 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)** Table

Secure training orders: cost of supervision by probation officer

F323 73 . . . . . .

Textual Amendments

F323 Sch. 10 para. 73 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)** Table

SCHEDULE 11

Section 168(3).

REPEALS

Extent Information

E29 Sch. 11 does not extend to Scotland in so far as it relates to s. 17(1) of the Video Recordings Act 1984 see s. 172(16)

Commencement Information

I19 Sch. 11 partly in force; Sch. 11 partly in force at Royal Assent see s. 172; Sch. 11 in force for specified purposes at 9.1.1995 by S.I. 1994/3192, art. 2, **Sch.**; Sch. 11 in force for further specified purposes at 3.2.1995 by S.I. 1995/127, art. 2(1), **Sch. 1** APPENDIX C; Sch. 11 in force for further specified purposes at 10.4.1995 by S.I. 1995/721, art. 2, **Sch.** APPENDIX B; Sch. 11 in force for further specified purposes at 4.9.1995 by S.I. 1995/1957, **art. 6**; Sch. 11 in force for further specified purposes at 1.3.1998 by S.I. 1998/277, **art. 3**; Sch. 11 in force for further specified purposes at 20.3.2002 by S.I. 2002/447, **art. 2**

Chapter	Short title	Extent of repeal
1848 c. 42.	Indictable Offences Act 1848.	Sections 12, 14 and 15.
1898 c. 36.	Criminal Evidence Act 1898.	In section 1, proviso (b).
1923 c. 9 (N.I.).	Criminal Evidence Act (Northern Ireland) 1923.	In section 1, proviso (b).
1925 c. 86.	Criminal Justice Act 1925.	F324 . . .. F324 . . ..
1952 c. 52.	Prison Act 1952.	In section 43(1)(a), the words "trial or". In section 43(1), the word "and" at the end of paragraph (b).

Status: *Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

		In section 43(2)(b) and (c), the words "trial or".
1956 c. 69.	Sexual Offences Act 1956.	In section 2(1), the word "unlawful". Section 2(2). In section 3(1), the word "unlawful". Section 3(2). Section 4(2). Section 22(2). Section 23(2).
1963 c. 37.	Children and Young Persons Act 1963.	In section 57(2), the words "Section 49 of the principal Act and" and "an appeal by case stated or". **[**F325In section 57(4), the words "49 and the said sections"**]**
1965 c. 45.	Backing of Warrants (Republic of Ireland) Act 1965.	In section 2(2)(a), the words from ", or an offence under an enactment" to "control".
1965 c. 69.	Criminal Procedure (Attendance of Witnesses) Act 1965.	F324 . . ..
1967 c. 60.	Sexual Offences Act 1967.	In section 1(1), the words "but subject to the provisions of the next following section". Section 1(5). Section 2. Section 3.
1967 c. 77.	Police (Scotland) Act 1967.	Section 18.
1967 c. 80.	Criminal Justice Act 1967.	F324. . .. F324. . .. In section 67(5), the word "and" at the end of paragraph (a).
1968 c. 19.	Criminal Appeal Act 1968.	F324 . . .
1968 c. 52.	Caravan Sites Act 1968.	Sections 6 to 12. In section 16, the definition of "gipsies".
1963 c. 54.	Children and Young Persons Act 1969	Section 10(1) and (2).

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		[F325In section 57(4), the words "49 and the said sections".**]**
1969 c. 63.	Police Act 1969.	Sections 1, 3, 6 and 7.
1970 c. 9 (N.I.).	Police Act (Northern Ireland) 1970.	Sections 19 and 20.
1972 c. 71.	Criminal Justice Act 1972.	F324 . . . F324 . . . F324 . . . F324 . . . F324 . . . F324 . . . F324 . . .. F324 . . ..
1973 c. 62.	Powers of Criminal Courts Act 1973.	F324 . . ..
1974 c. 23.	Juries Act 1974.	In section 10, the words "physical disability or".
1974 c. 53.	Rehabilitation of Offenders Act 1974.	In section 5(4), the words "or placed on probation," and "or probation order".
1976 c. 63.	Bail Act 1976.	Section 1(4). In section 3(6), the words "(but only by a court)".
1976 c. 82.	Sexual Offences (Amendment) Act 1976.	Section 1(1). In section 7(2), the words from "references" to "only);".
1977 c. 45.	Criminal Law Act 1977.	Section 6(3). Section 38.
1978 c. 30.	Interpretation Act 1978.	F324 . . ..
1978 c. 37.	Protection of Children Act 1978.	In section 1(1)(a), the words following "child". In section 4(2), the words from "within" to "warrant".
1980 c. 43.	Magistrates' Courts Act 1980.	In section 22(1), the words "subject to subsection (7) below". In section 24(1)(a) the words "he has attained the age of 14 and". In section 38(2)(b), the words from "committed" to "21 years old". F324 . . . .

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***Changes to legislation:** Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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)*

		F324 . . . . F324 . . . F324 . . . F324 . . . F324 . . .. F324 . . .. F324 . . ..
1980 c. 62.	Criminal Justice (Scotland) Act 1980.	In section 80, subsection (5); in subsection (7), paragraph (d) and the word "; or" immediately preceding that paragraph; and subsection (8).
1981 c. 47.	Criminal Attempts Act 1981.	F324 . . ..
1982 c. 48.	Criminal Justice Act 1982.	F324 . . .. Section 12(6), (7) and, in subsection (11), paragraph (b) and the word "and". Section 67(5). In Schedule 14, paragraph 8.
S.I. 1982/1536 (N.I. 19).	Homosexual Offences (Northern Ireland) Order 1982.	In Article 3, in paragraph (1), the words "and Article 5 (merchant seamen)" and paragraph (4). Article 5.
1984 c. 39.	Video Recordings Act 1984.	In section 1, in subsection (2)(a), the word "or" and in subsection (3), the word "or" where it occurs first. In section 17(1), the words from "within" to "warrant".
1984 c. 60.	Police and Criminal Evidence Act 1984.	Section 37(1)(b), together with the word "or" preceding it. Section 47(5). In section 62(10), the words following "proper". In section 118(1), the definition of "intimate search".
1985 c. 23.	Prosecution of Offences Act 1985.	In Schedule 1, paragraph 1.
1986 c. 64.	Public Order Act 1986.	Section 39. In section 42(2), "39".
1987 c. 38.	Criminal Justice Act 1987.	F324 . . ..

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1988 c. 33.	Criminal Justice Act 1988.	In section 25(1)(a)(ii), the word "or". Section 32A(10). In section 34(2), the words from "in relation to" to the end. Section 126. In section 160, in subsection (1), the words from "(meaning" to "16)" and subsection (5).
1988 c. 34.	Legal Aid Act 1988.	F324 . . . F324 . . . F324 . . .
S.I. 1988/1987 (N.I.20).	Criminal Evidence (Northern Ireland) Order 1988.	In Article 4, in paragraph (1) (b) the words "be called upon to" and paragraphs (9) and (10).
1989 c. 45.	Prisons (Scotland) Act 1989.	Section 33.
1989 c. 41.	Children Act 1989.	In Schedule 5, paragraph 7(2) (f). In Schedule 6, paragraph 10(2)(j).
1990 c. 42.	Broadcasting Act 1990.	In Schedule 20, in paragraph 3(2), the words "and 49".
1991 c. 13.	War Crimes Act 1991.	F324 . . .
1991 c. 24.	Northern Ireland (Emergency Provisions) Act 1991.	In Schedule 7, paragraph 5(3) (c).
1991 c. 53.	Criminal Justice Act 1991.	In section 3(2), the words from the beginning to "indictment,". In section 3(4), the words from "which is" to "applies". Section 50(4). Section 52(2). Section 57(4)(b), together with the word "and" preceding it. Section 64.
S.I. 1992/1829.	Parole Board (Transfer of Functions) Order 1992.	In Article 3, the words from "and 39" to "licence)" and the words "and (4)".
1993 c. 24.	Video Recordings Act 1993.	Section 3.
1993 c. 36.	Criminal Justice Act 1993.	Section 67(2).

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Textual Amendments

F324 Entries in Sch. 11 repealed (*retrospective* to 3.11.1994) by 1996 c. 25, s. 44, 80, **Sch. 5 para. 1** (with 78(1))

F325 By 1999 c. 23, ss. 67, 68(3), Sch. 4 paras. 21, **24** it is provided (*prosp.*) that the entry relating to s. 57(4) of the 1969 Act shall be treated as, and as always having been, an entry relating to s. 57(4) of the Children and Young Persons Act 1963

Note: The repeals that are to come into force on the passing of this Act are the following, namely, the repeals in the Sexual Offences Act 1967, the Caravan Sites Act 1968, the Sexual Offences (Amendment) Act 1976, the Public Order Act 1986, the Criminal Justice (Scotland) Act 1980 and the Homosexual Offences (Northern Ireland) Order 1982.

Status:
Point in time view as at 30/04/2011. This version of this Act contains provisions that are prospective.

Changes to legislation:
Criminal Justice and Public Order Act 1994 is up to date with all changes known to be in force on or before 19 April 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.