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: *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 09 June 2020. 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) View outstanding changes*

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F1 Ss. 1-4 repealed and superseded (1.4.2000) by 1998 c. 37, ss. 73(7)(b), 74-78, 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3(c)** (with savings in art. 4)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F2 Ss. 1-4 repealed and superseded (1.4.2000) by 1998 c. 37, ss. 73(7)(b), 74-78, 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3(b)** (with savings in art. 4) (and subject to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F3 Ss. 1-4 repealed and superseded (1.4.2000) by 1998 c. 37, ss. 73(7)(b), 74-78, 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3** (with savings in art. 4)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F4 Ss. 1-4 repealed and superseded (1.4.2000) by 1998 c. 37, ss. 73(7)(b), 74-78, 120(2), **Sch. 10** (with Sch. 9); S.I. 1999/3426, **art. 3** (with savings in art. 4)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 [M1]Prison 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 **[**[F5]person**]** who is detained in the secure training centre; and

(b) to search **[**[F6]in 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 **[**[F7]submit 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 **[**[F8]persons**]** 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) **[**[F10]Sections 9 and 9A**]** shall apply in relation to a custody officer performing contracted out functions at a directly managed secure training centre as **[**[F11]they 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 [M8]Prison 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.

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12 Escort arrangements and officers.

(1) The provisions of Schedule 1 to this Act (which make provision for escort arrangements **[**[F12]persons 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 [M9]Criminal 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) . . . . . .

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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.

[F20](1) . . . . . .

(2) In the [M11]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 a requirement to obtain the permission of any local authority who are looking after the child.".

[F21](3) . . . . . .

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Textual Amendments

F20 S. 19(1) 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))

F21 S. 19(3) 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))

Marginal Citations

M11 1989 c. 41.

[F22]20 . . . . . .

Textual Amendments

F22 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

[F23]21 Cost of secure accommodation.

. . . . . .

Textual Amendments

F23 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)—

(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.

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(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

[F24]23 Liability of young persons to arrest for breaking conditions of remand.

. . . . . .

Textual Amendments

F24 S. 23 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))

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)

Police detention of young persons

24 Detention of arrested juveniles after charge.

In section 38(6) of the [M12]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

M12 1984 c. 60.

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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 **[**[F25]shall be granted bail in those proceedings only if the court or, as the case may be, the constable considering the grant of bail **[**[F26]is of the opinion **]** 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;

(b) attempted murder;

(c) manslaughter;

[[F27](d) rape under the law of Scotland [F28] ...;

(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;

[[F29](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;

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(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 **[**[F30](mh)**].]**

[[F31](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—

(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 [M13]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 [F32]. . . discharging **[**[F33]the offender**]** absolutely or conditionally;

and "convicted" shall be construed accordingly; [F34]...

[[F35] " 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, **[**[F36]section 91 of the Powers of Criminal Courts (Sentencing) Act 2000**]**;

[[F37](b) as respects Scotland, sections 205(1) to (3) and 208 of the Criminal Procedure (Scotland) Act 1995;**]**

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(c) as respects Northern Ireland, section 73(2) of the [M14]Children and Young Persons Act (Northern Ireland) 1968.

[[F38](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

F25 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)**

F26 Words in s. 25(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 11 para. 33**; S.I. 2012/2906, art. 2(i)

F27 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**

F28 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)**

F29 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)**

F30 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)**

F31 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)

F32 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)

F33 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)

F34 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)

F35 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)

F36 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**

F37 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)

F38 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

M13 1964 c. 84.

M14 1968 c. 34 (N.I.).

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

In Part I of Schedule 1 to the [M15]Bail Act 1976 (exceptions to right to bail for imprisonable offences)—

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

"2A he 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

M15 1976 c. 63.

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

(1) Part IV of the [M16]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 [M17]Bail Act 1976 there shall be inserted the following section—

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"3A "**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 [M18]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
(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

M16 1984 c. 60.
M17 1976 c. 63.
M18 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

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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 [M19]Bail Act 1976.".

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

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

Marginal Citations

M19 1976 c. 63.

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

(1) Part IV of the [M20]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** "**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—

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(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) [F39] . . . . . .

(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.

Textual Amendments

F39 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

M20 1984 c. 60.

30 Reconsideration of decisions granting bail.

After the section 5A of the [M21]Bail Act 1976 inserted by Schedule 3 to this Act there shall be inserted the following section—

“5B “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.

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(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 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

M21 1976 c. 63.

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PART III

COURSE OF JUSTICE: EVIDENCE, PROCEDURE, ETC.

Imputations on character

31 Imputations on character.

F40 . . . . . .

Textual Amendments

F40 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,

is hereby abrogated.

(2) In section 34(2) of the [M22]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)

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Marginal Citations
M22 1988 c. 33.

33 Abolition of corroboration requirements under Sexual Offences Act 1956.

(1) The following provisions of the [M23]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
M23 1956 c. 69.

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,
[[F41]; or
(c) at any time after being charged with the offence, on being questioned under section 22 of the Counter-Terrorism Act 2008 (post-charge questioning), 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—

[F42](a) . . . . . .
[F43](b) a judge, in deciding whether to grant an application made by the accused under**[**[F44] paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998**]**
(c) the court, in determining whether there is a case to answer;

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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.

[[F45](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.

[F46](7) . . . . . .

Textual Amendments

F41 S. 34(1)(c) and word inserted (10.7.2012) by Counter-Terrorism Act 2008 (c. 28), **ss. 22(9)**, 100(5) (with s. 22(8)(10)101(2)); S.I. 2012/1724, art. 2(a)

F42 S. 34(2)(a) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 64(2)(a), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, arts. 4(2), 2, Schedule and S.I. 2013/1103, art. 4)

F43 Words in s. 34(2)(b) substituted for s. 34(2)(b)(i)(ii) (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 64(2)(b)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, arts. 4(2), 2, Schedule and S.I. 2013/1103, art. 4)

F44 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)

F45 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)**

F46 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))

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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 [F47]. . . 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 **[**[F48]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.

(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.

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(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.

F49(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

F47 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)**

F48 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)**

F49 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)

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

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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—

[F50](a) . . . . . .

[F51](b) a judge, in deciding whether to grant an application made by the accused under**[**[F52] 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.

[[F53](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.

[F54](8) . . . . . .

Textual Amendments

F50 S. 36(2)(a) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 64(3)(a), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 34)

F51 Words in s. 36(2)(b) substituted for s. 36(2)(b)(i)(ii) (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 64(3)(b)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4);

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S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 34)

F52 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)

F53 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)**

F54 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.

(2) Where this subsection applies—

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[F55](a) . . . . . .

[F56](b) a judge, in deciding whether to grant an application made by the accused under**[**[F57] 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.

[[F58](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.

[F59](7) . . . . . .

Textual Amendments

F55 S. 37(2)(a) repealed (18.6.2012 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 64(4)(a), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)

F56 Words in s. 37(2)(b) substituted for s. 37(2)(b)(i)(ii) (9.5.2005 for specified purposes, 18.6.2012 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 64(4)(b)**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4)

F57 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)

F58 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)**

F59 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)

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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)

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 **[**[F60]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.

[[F61](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.

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(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.

Textual Amendments

F60 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)

F61 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.

[[F62](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

F62 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: *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 09 June 2020. 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) View outstanding changes*

Juries

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

F63 . . . . . .

Textual Amendments

F63 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 [M24]Juries Act 1974 there shall be inserted the following section—

"9B "**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

M24 1974 c. 23.

42 Jury service: excusal on religious grounds.

F64 . . . . . .

Textual Amendments

F64 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 [M25]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 "**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
M25 1974 c. 23.

Procedure, jurisdiction and powers of magistrates' courts

[F65]44 . . . . . .

Textual Amendments
F65 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 [M26]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 [M27]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).".

[F66](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

F66 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

M26 1991 c. 53.
M27 1975 c. 21.

Sentencing: guilty pleas

[F67]48 . . . . . .

Textual Amendments

F67 S. 48 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I**, (with Sch. 11 paras. 1, 2)

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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 [M28]Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children or young persons are concerned) there shall be substituted—

"**49** "**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 [M29]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 [M30]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 [M31]Courts and Legal Services Act 1990;

"programme" and "programme service" have the same meaning as in the [M32]Broadcasting Act 1990;

"sexual offence" has the same meaning as in section 31(1) of the [M33]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

M28 1933 c. 12.

M29 1969 c. 54.

M30 1969 c. 54.

M31 1990 c. 41.

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M32 1990 c. 42.
M33 1991 c. 53

Child testimony

[F68]50 . . . . . .

Textual Amendments
F68 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.

[[F69](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 **[**[F70]within 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 **[**[F71]or (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 **[**[F72]a 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 [M34]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) **[**[F73]or (ba)**]** of the [M35]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 **[**[F74]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

F69 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)**

F70 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)**

F71 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)**

F72 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)

F73 Words in s. 51(10)(a)(iii) inserted (24.2.2014) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 17 para. 36** (with Sch. 17 para. 39); S.I. 2014/258, art. 2(b)

F74 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

M34 1980 c. 43.

M35 1933 c. 36.

Criminal appeals

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

(1) Section 9 of the **[**[F75]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, ";

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(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

(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 [M36]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 **[**[F75]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.".

[F76](8) . . . . . .

(9) After the section 56A of the **[**[F75]Senior Courts Act 1981**]** inserted by subsection (8) above there shall be inserted the following section—

"**56B** "**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

F75 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)

F76 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

M36 1968 c. 19.

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

(1) After section 28(2) of the [M37]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 [M38]Criminal Appeal (Northern Ireland) Act 1980 before the date on which that subsection comes into force.

Marginal Citations

M37 1980 c. 47.

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M38 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 [M39]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) [F77]. . . . . .

Textual Amendments

F77 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

M39 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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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 09 June 2020. 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) View outstanding changes*

(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) ”.

[F78](6) . . . . . .

Textual Amendments

F78 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 [M40]Police and Criminal Evidence Act 1984—

“**63A** “**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 [M41]Prison Act 1952 applies.

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(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

M40 1984 c. 60.

M41 1952 c. 52.

Status: *This version of this Act contains provisions that are prospective.*
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[F79]57 Retention of samples in certain cases.

. . . . . .

Textual Amendments

F79 S. 57 repealed (31.10.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 1** (with s. 97); S.I. 2013/2104, art. 3(d)

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;
> (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 [M42]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

M42 1984 c. 24.

Status: *This version of this Act contains provisions that are prospective.*
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59 Extension of powers to search persons' mouths.

(1) In section 65 of the [M43]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
M43 1984 c. 60.

Powers of police to stop and search

60 Powers to stop and search in anticipation of [[F80] , or after] violence.

[F81][(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,

[[F82](aa) that—

(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 [[F83]an 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 [[F84]activity] falling within the authorisation, he may direct that the authorisation shall continue in being for a further [[F85]24] hours.

[[F86](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;

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

[F87](4A) . . . . . .

(5) A constable may, in the exercise of **[**[F88]the 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.

[F89](8) A person who fails

(a) to stop, or to stop a vehicle; [F90]. . .

[F90](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) **[**[F91]Subject to subsection (9ZA),**]** any authorisation under this section shall be in writing signed by the officer giving it and shall specify **[**[F92]the 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 be given in writing or, where that is not practicable, recorded in writing as soon as it is practicable to do so.

[[F93](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.**]**

[[F94](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 **[**[F95]in England and Wales **]** specified in section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003 **[**[F96]and 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 [F97]. . ..

[[F98](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—

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[F99] …

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

"offensive weapon" has the meaning given by section 1(9) of the [M44]Police and Criminal Evidence Act 1984 **[**[F100]or, in relation to Scotland, section 47(4) of the [M45]Criminal Law (Consolidation) (Scotland) Act 1995**][**[F101]; 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

[F102] . . . . . .

"vehicle" includes a caravan as defined in section 29(1) of the [M46]Caravan Sites and Control of Development Act 1960.

[[F103](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

F80 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

F81 S. 60(1) substituted (1.3.1999) by 1997 c. 21, **s. 8(2)**; S.I. 1999/5, **art. 2**

F82 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

F83 Words in s. 60(3) substituted (1.3.1999) by 1997 c. 21, **s. 8(4)(a)**; S.I. 1999/5, **art. 2**

F84 Word in s. 60(3) substituted (1.3.1999) by 1997 c. 21, **s. 8(4)(b)**; S.I. 1999/5, **art. 2**

F85 Word in s. 60(3) substituted (1.3.1999) by 1997 c. 21, **s. 8(4)(c)**; S.I. 1999/5, **art. 2**

F86 S. 60(3A) inserted (1.3.1999) by 1997 c. 21, **s. 8(5)**; S.I. 1999/5, **art. 2**

F87 S. 60(4A) repealed (14.12.2001) by 2001 c. 24, ss. 125, 127(2)(i), **Sch. 8 Pt. VI**

F88 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**

F89 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**

F90 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**

F91 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

F92 Words in s. 60(9) inserted (1.3.1999) by 1997 c. 21, **s. 8(6)**; S.I. 1999/5, **art. 2**

F93 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

F94 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)**

F95 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

F96 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

F97 Words in s. 60(10) repealed (1.3.1999) by 1997 c. 21, **s. 8(7)**; S.I. 1999/5, **art. 2**

F98 S. 60(10A) inserted (1.3.1999) by 1997 c. 21, **s. 8(8)**; S.I. 1999/5, **art. 2**

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F99 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)**

F100 Words in s. 60(11) inserted (1.3.1999) by 1997 c. 21, **s. 8(9)**; S.I. 1999/5, **art. 2**

F101 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

F102 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)**

F103 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

M44 1984 c. 60.

M45 1995 c. 39.

M46 1960 c. 62.

[F104 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

(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,

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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.

F105 **[** Subject to subsection (6A), an authorisation under subsection (3)—

(6) (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; and

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

(6A) An authorisation under subsection (3) need not be given in writing where it is not practicable to do so but any oral authorisation—

(a) must state the matters which would otherwise have to be specified under subsection (6); and

(b) must be recorded in writing as soon as it is practicable to do so.

(6B) A direction under subsection (4) shall 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 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 **[**F106"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

F104 S. 60AA inserted (14.12.2001) by 2001 c. 24, **ss. 94(1)**, 127(2)(d)

F105 Ss. 60AA(6)-(6B) substituted for s. 60AA(6) (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 120**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 28

F106 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)**

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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)**

[F107 60A Retention and disposal of things seized under section 60.

(1) Any things seized by a constable under section 60 **[**F108 or 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

F107 S. 60A inserted (1.3.1999) by 1998 c. 37, **s. 26** (with Sch. 9); S.I. 1998/3263, **art. 4**

F108 Words in s. 60A(1) inserted (14.12.2001) by 2001 c. 24, **ss. 94(2)**, 127(2)(d)

F110 [F109 60B Arrest without warrant for offences under section 60: Scotland.

. . . . . .**]**

Textual Amendments

F109 S. 60B inserted (1.3.1999) by 1998 c. 37, **s. 27(2)** (with Sch. 9); S.I. 1998/3263, **art. 4**

F110 S. 60B repealed (S.) (25.1.2018) by Criminal Justice (Scotland) Act 2016 (asp 1), s. 117(2), **sch. 2 para. 10**; S.S.I. 2017/345, art. 3, sch.

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

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(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.

[[F111](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). **]**

[F112](5) . . . . . .

(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—

Status: *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 09 June 2020. 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) View outstanding changes*

(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—

[[F113]"common land" means—

(a) land registered as common land in a register of common land kept under Part 1 of the Commons Act 2006; and

(b) land to which Part 1 of that Act does not apply and which is subject to rights of common as defined in that Act;**]**

"commoner" means a person with rights of common as defined in section 22 of the [M47]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 [M48]Local Government Finance Act 1988 or, in Scotland, section 7(2) of the [M49]Valuation and Rating (Scotland) Act 1956, or

(ii) scheduled monuments within the meaning of the [M50]Ancient Monuments and Archaeological Areas Act 1979;

(b) land forming part of—

(i) a highway unless **[**[F114]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 [M51]Highways Act 1980 or the [M52]Cycle Tracks Act 1984; or

(ii) a road within the meaning of the [M53]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 [M54]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

(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 [M55]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;

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(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 [M56]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

F111 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)**

F112 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)

F113 Words in s. 61(9) substituted (31.10.2011 for E.) by Commons Act 2006 (c. 26), s. 56, **Sch. 5 para. 5** (with s. 60); S.I. 2011/2460, art. 2(a)(i) (with art. 3)

F114 S. 61(9): Words in para. (b)(i) of the definition of "land"substituted (2.5.2006 for E and 11.5.2006 for W., otherwise prosp.) 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

M47 1965 c. 64.
M48 1988 c. 41.
M49 1956 c. 60.
M50 1979 c. 46.
M51 1980 c. 66.
M52 1984 c. 38.
M53 1984 c. 54.
M54 1967 c. 86.
M55 1971 c. 48.
M56 1960 c. 62.

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.

Status: *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 09 June 2020. 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) View outstanding changes*

[F115 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—
  (a) a local authority within whose area the land is situated;
  (aa) [F116 a 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.]

Status: *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 09 June 2020. 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) View outstanding changes*

Textual Amendments

F115 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)**

F116 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)

[F117 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) F118 . . . . . .

(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

F117 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)**

F118 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))

[F119 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

Status: *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 09 June 2020. 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) View outstanding changes*

(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

F119 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)**

[F120 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

F120 S. 62D inserted (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 63**, 93; S.I. 2003/3300, **art. 3(b)**

[F121 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.

Status: *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 09 June 2020. 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) View outstanding changes*

(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

F121 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 **[**[F122]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—

(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.

[[F123](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

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(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 [F124]. . . , 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 **[**[F125]subsection (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.

[[F126](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.**]**

(8) [F127]. . . . . .

(9) This section does not apply—

[[F128](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 [M57]Civic Government (Scotland) Act 1982, are licensed to be used as a place of public entertainment.

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(10) In this section—

"entertainment licence" means a licence granted by a local authority under—

(a) Schedule 12 to the [M58]London Government Act 1963;

(b) section 3 of the [M59]Private Places of Entertainment (Licensing) Act 1967; or

(c) Schedule 1 to the [M60]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

F122 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)**

F123 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)**

F124 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)**

F125 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)**

F126 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)**

F127 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)

F128 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

M57 1982 c. 45.

M58 1963 c. 33.

M59 1967 c. 19.

M60 1982 c. 30.

Status: *This version of this Act contains provisions that are prospective.*
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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 [F124]. . . , 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—

[[F128](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;**]**

Status: *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 09 June 2020. 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) View outstanding changes*

(b) in Scotland, to a gathering in premises which, by virtue of section 41 of the [M57]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 [M58]London Government Act 1963;

(b) section 3 of the [M59]Private Places of Entertainment (Licensing) Act 1967; or

(c) Schedule 1 to the [M60]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

F124 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)**

F128 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

M57 1982 c. 45.

M58 1963 c. 33.

M59 1967 c. 19.

M60 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.

Status: *This version of this Act contains provisions that are prospective.*
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(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.

(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.

[[F129](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

F129 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.

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(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) **[**[F130]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, "exempt person" has the same meaning as in section 63.

Textual Amendments

F130 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

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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, 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) **[**[F131], 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

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(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.

(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

F131 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 **[**[F132]in 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 **[**[F133]in 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.

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[[F134](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.**]**

(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.

(4) **[**[F135]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 [M61]Roads (Northern Ireland) Order 1993.

Textual Amendments

F132 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)**

F133 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)**

F134 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)**

F135 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); s. 68(4) 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

M61 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 **[**[F136]in the open air**]**; or

(b) that two or more persons are trespassing on land **[**[F137]in 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.

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(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

(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.

(5) **[**[F138]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

F136 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)**

F137 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)**

F138 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); s. 69(5) 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 [M62]Public Order Act 1986 (processions and assemblies), after section 14, there shall be inserted the following sections—

"14A "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

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(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 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;

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"land" means land in the open air;

"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 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 [M63]Magistrates' Courts Act 1980.

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(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
M62 1986 c. 64.
M63 1980 c. 43.

71 Trespassory assemblies: power to stop persons from proceeding.

After the section 14B inserted by section 70 in the [M64]Public Order Act 1986 there shall be inserted the following section—

“**14C** “**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
M64 1986 c. 64.

Squatters

72 Violent entry to premises: special position of displaced residential occupiers and intending occupiers.

(1) Section 6 of the [M65]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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"(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
M65 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 "**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 [M66]Criminal Law Act 1977 there shall be inserted the following section—

“**12A** “**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 [M67]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 [M68]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

M66 1977 c. 45.
M67 1977 c. 42.
M68 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 [M69]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

M69 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) **[**[F139]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 [M70]Criminal Law Act 1977 (offences relating to entering and remaining on property).

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Textual Amendments

F139 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

M70 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 [M71]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

M71 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 [M72]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
M72 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 [M73]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 [M74]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 [M75]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 [F140]..... 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 [M76]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

F140 Words in s. 80(4) repealed (30.4.2011 for E. for specified purposes, 10.7.2013 for W.) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), **Sch. 16**; S.I. 2011/1002, art. 2 (with arts. 3-7Sch.); S.I. 2013/1469, art. 2(1)(b) (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

M73 1968 c. 52.
M74 1960 c. 62.
M75 1990 c. 8.
M76 1980 c. 65.

PART VI

PREVENTION OF TERRORISM

[F141]81 .....

Textual Amendments

F141 Ss. 81, 83 repealed (19.2.2001) by 2000 c. 11, s. 125, **Sch. 16 Pt. I**, S.I. 2001/421, art. 2(a)

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[F142]82 . . . . . .

Textual Amendments
F142 S. 82 repealed (19.2.2001) by 2000 c. 11, s. 125, **Sch. 16 Pt. I**; S.I. 2001/421, **art. 2(a)**

[F143]83 . . . . . .

Textual Amendments
F143 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 [M77]Protection 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—

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"(6) "Child", subject to subsection (8), means a person under the age of 16.

(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 [M78]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 [M79]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

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person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult.

(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 [M80]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;

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"photograph" includes—

(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 [M81]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: *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 09 June 2020. 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) View outstanding changes*

Marginal Citations

M77 1978 c. 37.
M78 1988 c. 33.
M79 1982 c. 45.
M80 S.I. 1978/1047 (N.I. 17).
M81 S.I. 1988/1847 (N.I. 17).

85 Arrestable offences to include certain offences relating to obscenity or indecency.

(1) [F144] . . . . . .

(2) [F144] . . . . . .

(3) [F144] . . . . . .

(4) [F145] . . . . . .

(5) [F145] . . . . . .

(6) [F145] . . . . . .

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

F144 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)

F145 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 [M82]Criminal 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 [M83]Criminal 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: *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 09 June 2020. 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) View outstanding changes*

Marginal Citations
M82 1988 c. 33.
M83 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 [M84]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
M84 1982 c. 45.

Video recordings

88 Video recordings: increase in penalties.

(1) The following provisions of the [M85]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: *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 09 June 2020. 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) View outstanding changes*

(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

M85 1984 c. 39.

89 Video recordings: restriction of exemptions.

(1) Section 2 of the [M86]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

M86 1984 c. 39.

Status: *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 09 June 2020. 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) View outstanding changes*

90 Video recordings: suitability.

(1) After section 4 of the [M87]Video Recordings Act 1984 there shall be inserted the following sections—

"4A "**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 **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 [M88]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

M87 1984 c. 39.

M88 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: *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 09 June 2020. 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) View outstanding changes*

(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 [M89]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** "**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 [M90]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 **16C. Extension of jurisdiction of sheriff in linked cases.**

(1) Subsection (4) of section 287 of the [M91]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: *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 09 June 2020. 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) View outstanding changes*

(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 16D. Extension of jurisdiction of magistrates' courts in Northern Ireland in linked cases.

(1) Paragraph (2) of Article 16 of the [M92]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

M89 1968 c. 29.
M90 1980 c. 43.
M91 1975 c. 21.
M92 S.I. 1981/1675 (N.I. 26).

Obscene, offensive or annoying telephone calls

92 Obscene, offensive or annoying telephone calls: increase in penalty.

[[F146](1) In section 43(1) of the [M93]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

F146 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

M93 1984 c. 12.

Status: *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 09 June 2020. 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) View outstanding changes*

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 [M94]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 [M95]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 [M96]Criminal Procedure (Insanity) Act 1964 or section 6, 14 or 14A of the [M97]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;

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"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 [M98]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

M94 1991 c. 53.
M95 1983 c. 20.
M96 1964 c. 84.
M97 1968 c. 19.
M98 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

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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 09 June 2020. 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) View outstanding changes*

(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 [M99]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 [M100]Criminal Justice Act 1991) acting in pursuance of prisoner escort arrangements (within the meaning of that Part).".

Marginal Citations

M99 1980 c. 57.

M100 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** "**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: *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 09 June 2020. 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) View outstanding changes*

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 "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 [M101]Landlord and Tenant Act 1954 (security of tenure);

(b) section 146 of the [M102]Law of Property Act 1925 (restrictions on and relief against forfeiture);

(c) section 19(1), (2) and (3) of the [M103]Landlord and Tenant Act 1927 and the [M104]Landlord and Tenant Act 1988 (covenants not to assign etc.); and

(d) the [M105]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

M101 1954 c. 56.
M102 1925 c. 20.
M103 1927 c. 36
M104 1988 c. 26.

Status: *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 09 June 2020. 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) View outstanding changes*

M105 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) [F147] . . . . . .

(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

F147 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 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: *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 09 June 2020. 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) View outstanding changes*

(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 [M106]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 [M107]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 **[**[F148]for Justice**]**) shall require the prison or any real or personal property belonging to the prison to be vested in the Secretary of State **[**[F148]for Justice**]** .

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F148 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

M106 1952 c. 52.

M107 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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(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)

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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 09 June 2020. 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) View outstanding changes*

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 **[**[F149]Criminal Procedure (Scotland) Act 1995**]** or the [M108]**[**[F150]Mental 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 **[**[F151]or by a police custody and security officer in the performance of functions **[**[F152]under section 28 of the Police and Fire Reform (Scotland) Act 2012 (asp 8)**]]** .

(6) In this section—

"hospital" has the same meaning as in the **[**[F153]Mental Health (Care and Treatment) (Scotland) Act 2003**]**;

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"hospital order" means an order for a person's detention in, or admission to and detention in, a hospital under **[**[F154]section **[**[F155]52D, 52M,**]** 53, 54 or **[**[F156]57A**]** of the Act of 1995**]**. . . ; and

"warrant" means a warrant for committal, a warrant for arrest, a **[**[F157]transfer 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 **[**[F158]Act of 1995**]** or **[**[F159]the 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

F149 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)

F150 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)**

F151 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.

F152 Words in s. 102(5) substituted (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 9(2)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
; words in s. 102(5) substituted (E.W.NI.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 4(2)**

F153 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)**

F154 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)

F155 S. 102(6): Words in definition of "hospital order" 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))}

F156 S. 102(6): Word in definition of "hospita order" 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))}

F157 S. 102(6): Words in definition of "warrant" 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))}

F158 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)

F159 S. 102(6): Words in definition of "warrant" 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))}

Marginal Citations

M108 1984 c. 36.

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103 Monitoring of prisoner escort arrangements.

(1) Prisoner escort arrangements shall include the appointment of a prisoner escort monitor, that is to say, a **[**[F160]member 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 **[**[F161]Scottish Ministers

(b) to investigate and report to the **[**[F161]Scottish Ministers**]** on any allegations made against prisoner custody officers acting in pursuance of the arrangements; and

(c) to report to the **[**[F161]Scottish Ministers**]** on any alleged breaches of discipline on the part of prisoners for whose transfer or custody such officers so acting are responsible.

[F162](2) . . . . . .**]**

Textual Amendments

F160 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**

F161 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**

F162 S. 103(2) repealed (S.) (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), art. 1, **sch. para. 3(2)**

Modifications etc. (not altering text)

C58 S. 103 applied (with modifications) (temp.) (27.5.2020) by Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 2 para. 3(2)(a)** (with s. 9)

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 **[**[F163]section 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
F163 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)

Modifications etc. (not altering text)
C59 S. 104 applied (with modifications) (temp.) (S.) (27.5.2020) by Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 2 para. 3(2)(b)** (with s. 9)

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)

Modifications etc. (not altering text)
C60 S. 105 applied (with modifications) (temp.) (S.) (27.5.2020) by Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 2 para. 3(2)(c)** (with s. 9)

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Contracted out prisons

106 Contracting out of prisons.

(1) The **[**[F164]Scottish 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.

(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 **[**[F164]Scottish 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 [M109]Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (irritancy clauses); and

(b) the [M110]Agricultural Holdings (Scotland) Act 1991 **[**[F165]and 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 **[**[F164]Scottish 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

F164 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**

F165 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

M109 1985 c.73.

M110 1991 c.55.

107 Officers of contracted out prisons.

(1) Instead of a governor, every contracted out prison shall have—

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(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 **[**[F166]Scottish Ministers**]** and

(b) a controller, who shall be a **[**[F167]member of the staff of the Scottish Administration**]** appointed by the **[**[F166]Scottish 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.

(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 **[**[F168]Scottish 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.

[[F169](6) The director must designate one or more medical officers for the prison.

(7) A person may be designated as a medical officer for the prison only if the person is a registered medical practitioner performing primary medical services for prisoners at the prison under the National Health Service (Scotland) Act 1978 (c.29).**]**

Textual Amendments

F166 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**

F167 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**

F168 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**

F169 S. 107(6)(7) substituted for s. 107(6)-(8) (1.11.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 110(3)**, 206(1); S.S.I. 2011/354, art. 2, sch.

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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.

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)—

[[F170](a) subsection (1A) shall not apply;**]**

(b) subsection (3) shall not apply.

(3) In sections **[**[F171]**[**[F172]3A(5) and (6) **]** (power to authorise searches of persons providing medical services),**][**[F173]7B (functions of prison monitoring co-ordinators), 7D (functions of independent prison monitors), 7E (duty of the governor to assist with inspection and monitoring), 7G (SPT visits),**]** 9(5), 11(4), 15(1) and (3) (various

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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) **[**[F174], 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 **[**[F175]**[**[F176]3A(5) and (6)**]** (power to carry out searches of persons providing medical services),**][**[F177]7 (Her Majesty's Chief Inspector of Prisons), 7B (functions of prison monitoring co-ordinators), 7D (functions of independent prison monitors), 7G (SPT visits),**]** 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) **[**[F178], 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.

[F179](4A) . . . . . .

(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 **[**[F180]**[**[F181]3A(1) and (2) (medical officers)**]**(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.

Textual Amendments

F170 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**

F171 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**

F172 Words in s. 110(3) substituted (1.11.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 110(4)(a)**, 206(1); S.S.I. 2011/354, art. 2, sch.

F173 Words in s. 110(3) inserted (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), art. 1, **sch. para. 3(3)(a)**

F174 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**

F175 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**

F176 Words in s. 110(4) substituted (1.11.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 110(4)(a)**, 206(1); S.S.I. 2011/354, art. 2, sch.

F177 Words in s. 110(4) inserted (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), art. 1, **sch. para. 3(3)(b)**

F178 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**

F179 S. 110(4A) repealed (1.11.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 110(4)(b)**, 206(1); S.S.I. 2011/354, art. 2, sch.

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F180 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**

F181 Words in s. 110(6) substituted (1.11.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 110(4)(c)**, 206(1); S.S.I. 2011/354, art. 2, sch.

111 Intervention by the Secretary of State.

(1) This section applies where, in the case of a contracted out prison, it appears to the **[**[F182]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 **[**[F183]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 **[**[F184]and the medical officer or officers for the prison**]** shall comply with any directions given by the governor in the exercise of those functions.

(4) Where the **[**[F185]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 **[**[F186]Scottish Ministers**]** 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 controller.

Textual Amendments

F182 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**

F183 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**

F184 Words in s. 111(3)(c) inserted (1.11.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 110(5)**, 206(1); S.S.I. 2011/354, art. 2, sch.

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F185 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**

F186 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—

[[F187](aa) section 3A(6) and (7) of the 1989 Act (searches of persons providing medical services);**]**

(a) section 11(4) of **[**[F188]that**]** 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 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.

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Textual Amendments

F187 S. 112(4)(aa) inserted (1.1.1998) by 1997 c. 48, **s. 43(6)(a)**; S.I. 1997/2323, art. 4, **Sch. 2**

F188 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 **[**[F189]Scottish 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 **[**[F189]Scottish Ministers**]** or any other person.

(2) Section 106(1) and subsection (1) above are without prejudice to the **[**[F189]Scottish 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 **[**[F189]Scottish Ministers**]**; and

(c) may be revoked by the **[**[F189]Scottish 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 **[**[F189]Scottish 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 **[**[F189]Scottish Ministers**]**; or

(c) any heritable or moveable property belonging to any prison mentioned in paragraph (a) or (b) above,

to be vested in the **[**[F189]Scottish Ministers**]**.

Textual Amendments

F189 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**

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—

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(a) that he has been approved by the **[**[F190]Scottish 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

F190 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 **[**[F191]Scottish 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

F191 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**

Modifications etc. (not altering text)

C61 S. 115 applied (with modifications) (temp.) (27.5.2020) by Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 2 para. 3(2)(e)** (with s. 9)

116 Minor and consequential amendments.

[F192](1) . . . . . .

(2) Section 33 of that Act (miscellaneous duties of prison governor) shall cease to have effect.

(3) After section 33 of that Act there shall be inserted the following section—

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"33A "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.".

Textual Amendments

F192 S. 116(1) repealed (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), art. 1, **sch. para. 3(4)**

117 Interpretation of Chapter II.

(1) In this Chapter, except where otherwise expressly provided—

"the 1989 Act" means the [M111]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 **[**[F193]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.

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(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

(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

F193 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

M111 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

[F194 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).]

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Textual Amendments

F194 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)

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 [M112]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 [M113]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

M112 S.I. 1986/595 (N.I. 4).

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M113 1980 c. 47.

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 [M114]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.

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(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.

Extent Information

E18 S. 120 extends to Northern Ireland and British Islands see s. 172(14)

Marginal Citations

M114 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 [M115]Prison Act (Northern Ireland) 1953.

Extent Information

E19 S. 121 extends to Northern Ireland and British Islands see s. 172(14)

Marginal Citations

M115 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.

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(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.

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) [F195] . . . . . .

(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

F195 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 [M116]Prison Act (Northern Ireland) 1953;

Status: *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 09 June 2020. 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) View outstanding changes*

"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—

(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 [M117]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 **[**[F196]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 [M118]Prisons (Scotland) Act 1989.

Extent Information

E20 S. 125 extends to Northern Ireland and British Islands see s. 172(14)

Textual Amendments

F196 Words in s. 125(3)(a) repealed (*prosp.*) by 2000 c. 43, ss. 75, 80, **Sch. 8**

Marginal Citations

M116 1953 c. 18 (N.I.).
M117 1968 c. 34 (N.I.).
M118 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—

[[F197](a) the Trade Union and Labour Relations (Consolidation) Act 1992 and the Employment Rights Act 1996;**]**

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[[F198](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 [M119]Prison Act 1952 or under section 2(2) of the [M120]Prison Act (Northern Ireland) 1953 (appointment of prison staff).

(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

F197 S. 126(2)(a) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 65** (with ss. 191-195, 202)

F198 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

M119 1952 c. 52.

M120 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—

[[F199](a) to take (or continue to take) any industrial action;**]**

(b) to commit a breach of discipline.

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[[F200](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).**]**

(2) The obligation not to contravene subsection (1) above shall be a duty owed to the Secretary of State. **[**[F201]or, in Scotland, to the Scottish Ministers**][**[F202]or, 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**][**[F203]or, 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 **[**[F201]or, in Scotland, to the Scottish Ministers**][**[F204]or, 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 [F205]. . . under section 2(2) of the [M121]Prison Act (Northern Ireland) 1953 (appointment of prison staff),

[[F206](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) [F207]. . . . . .

(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 [M122]Criminal 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 **[**[F208]or in Scotland, the Scottish Ministers**][**[F209]or, 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

F199 S. 127(1)(a) substituted (8.5.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 138(2)**, 153(1)(d)

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F200 S. 127(1A) inserted (8.5.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 138(3)**, 153(1)(d)

F201 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**

F202 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)

F203 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)

F204 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)

F205 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)**

F206 S. 127(4)(aa) inserted (8.5.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 138(4)**, 153(1)(d)

F207 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)**

F208 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**

F209 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

M121 1953 c. 18 (N.I.).

M122 1991 c. 53.

[F210 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.

F211 **[** (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**[**F212(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.**]**

[F213(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.

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(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

F210 S. 127A inserted (8.5.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 139**, 153(1)(d)

F211 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)

F212 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)

F213 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.

[[F214](5) For the purposes of this section, the prison service comprises all the individuals who:

[[F215](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;

[F216](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.**]**

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Textual Amendments

F214 S. 128(5) substituted (22.3.2005) by The Regulatory Reform (Prison Officers) (Industrial Action) Order 2005 (S.I. 2005/908), arts. 1, **3**

F215 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)**

F216 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)

Modifications etc. (not altering text)

C62 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**

C63 S. 128 amended (1.7.1999) by S.I. 1999/1756 arts. 1, 2, Sch. para. 16 (with art. 8); 1998/3178, art. 2

[F217 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.]

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Textual Amendments

F217 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)

PART IX

MISCELLANEOUS AMENDMENTS: SCOTLAND

129 Transfer of persons detained by police and customs officers.

[F218](1) . . . . . .

(4) In subsection (1) of section 48 of the [M123]Criminal 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

F218 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

M123 1987 c. 41.

Status: *This version of this Act contains provisions that are prospective.*
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130 Detention and release of children: Scotland.

(1) In section 7 of the [M124]Prisoners 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,

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.".

[F219](4) . . . . . .

Textual Amendments

F219 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

M124 1993 c. 9.

131 Conditions in licence of released prisoner: requirement for Parole Board recommendations.

In section 12(3)(a) of the [M125]Prisoners and Criminal Proceedings (Scotland) Act 1993 (requirement of Parole Board recommendations for inclusion of conditions in licences

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of certain released prisoners), after the word "inclusion" there shall be inserted the words " or subsequent insertion, variation or cancellation ".

Marginal Citations
M125 1993 c. 9.

[F220]132 . . . . . .

Textual Amendments
F220 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 [M126]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 [M127]Army Act 1955 (imprisonment and detention rules); or

(iv) rules made under section 122(1)(a) of the [M128]Air Force Act 1955 (imprisonment and detention rules); or

(v) a determination made under section 81(3) of the [M129]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
M126 1993 c. 9.
M127 1955 c. 18.
M128 1955 c. 19.
M129 1957 c. 53.

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134 Amendment of provisions continued in effect for certain prisoners by Prisoners and Criminal Proceedings (Scotland) Act 1993.

(1) In Schedule 6 to the [M130]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

(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 [M131]Prisons (Scotland) Act 1989, being provisions which, notwithstanding their repeal by the [M132]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) [F221] . . . . . .

(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—

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(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

F221 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.

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

M130 1993 c. 9.
M131 1989 c. 45.
M132 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 [M133]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

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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

(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
M133 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

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any constable of any police force of the country of issue or of the country of execution **[**[F222]or by a constable appointed under **[**[F223]section 24 of the Railways and Transport Safety Act 2003**]]** as well as by any other persons within the directions in the warrant.

(2) A warrant issued in—

(a) Scotland; or

(b) Northern Ireland,

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 **[**[F222]or by a constable appointed under **[**[F223]section 24 of the Railways and Transport Safety Act 2003**]]** 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.

[[F224](4A) The following provisions apply in relation to the execution under this section by a constable of a warrant issued in England and Wales or Northern Ireland—

(a) where the warrant is executed under subsection (1), the constable has the same powers of entry and search for the purpose of executing the warrant as a constable of a police force in Scotland would have if the warrant had been issued in Scotland;

(b) where the warrant is executed under subsection (2)(b) or (3)(a), the constable has the powers of entry and search conferred by section 137E;

(c) where the warrant is executed under subsection (1), (2)(b) or (3)(a), the constable has the powers conferred by section 139 in relation to the arrested person;

(d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.**]**

[[F225](4B) Where, under subsection (2)(a) or (3)(b), a constable executes a warrant issued in Scotland, any enactment or rule of law which concerns—

(a) the powers and duties of a constable who executes such a warrant;

(b) the rights of a person arrested under such a warrant;

(c) the procedures to be followed after an arrest under such a warrant,

applies in relation to the arrest (subject to the modifications set out in section 137ZA) as though the warrant had been executed in Scotland and, if the constable who executed it is not a constable of a police force in Scotland, as though the constable were.**]**

[F226](5) ...

[F227](a) . . . . . .

[F228](b) . . . . . .

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(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.

[[F229](7A) This section applies as respects a warrant issued under paragraph 3(2) of Schedule 1 to **[**[F230]the Powers of Criminal Courts (Sentencing) Act 2000**]** (warrant for arrest of offender referred back to court by youth offender panel) **[**[F231]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.

[[F232](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.**]**

Textual Amendments

F222 Words in s. 136(1)(2) inserted (14.12.2001) by 2001 c. 24, ss. 101, 127, **Sch 7 para. 17**

F223 Words in s. 136(1)(2) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 6(a)**; S.I. 2018/227, art. 2(g)

F224 S. 136(4A) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 7(2)**; S.I. 2018/227, art. 2(g)

F225 S. 136(4B) inserted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 2(a)** (with art. 5(2))

F226 S. 136(5) repealed (S.) (1.3.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), **art. 14(3)** (with art. 14(2))

F227 S. 136(5)(a) omitted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 7(3)**; S.I. 2018/227, art. 2(g)

F228 S. 136(5)(b) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 2(b)** (with art. 5(2))

F229 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)**

F230 Words in s. 136(7A) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 9 para. 161**

F231 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)

F232 S. 136(9) inserted (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(6)**

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Modifications etc. (not altering text)

C64 S. 136 applied (with modifications) (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(2)-(5)**

C65 Ss. 136-139 applied (with modifications) (25.6.2013) by Crime and Courts Act 2013 (c. 22), **s. 55(7)**(8)61(2) (with Sch. 21 paras. 40, 42, 43); S.I. 2013/1042, art. 4(g)

137 Cross-border powers of arrest etc.

(1) If the **[**[F233]condition 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 [F234]... as it would be competent for him to exercise were the person in Scotland.

[[F235](2A) The powers conferred by subsections (1) and (2) may be exercised in England and Wales and Scotland by a constable appointed under **[**[F236]section 24 of the Railways and Transport Safety Act 2003**].]**

(3) If **[**[F237]the condition applicable to this subsection is 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.

[[F238](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.

[[F239](6) The condition applicable to subsection (3) 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 Northern Ireland.**]**

(7) It shall be the duty of a constable who has arrested [F240]... 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;

[[F241](ba) if he arrested him in England or Wales under subsection (2) above and has charged him with an offence, 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;

(bb) if he arrested him in England or Wales under subsection (2) above and has not charged him with an offence, to take the person arrested either to a police

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station in Scotland mentioned in paragraph (ba) above, or to the nearest convenient designated police station in England or Wales;

(bc) if he arrested him in England or Wales under subsection (3) above, to take the person arrested 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;**]**

[F242](c) . . . . . .

(d) if he arrested him in Northern Ireland **[**[F243]under subsection (1) above**]** , 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 [F244]...;

[[F245](da) if he arrested him in Northern Ireland under subsection (2) above and has charged him with an offence, to take the person arrested to such police station in Scotland as is mentioned in paragraph (ba) above;

(db) if he arrested him in Northern Ireland under subsection (2) above and has not charged him with an offence, to take the person arrested either to such police station in Scotland as is mentioned in paragraph (ba) above, or to the nearest convenient designated police station in Northern Ireland;**]**

[F246](e) . . . . . .

and to do so as soon as reasonably practicable.

[[F247](7A) The following provisions apply in relation to an arrest under this section by a constable under subsection (1) or (3)—

(a) where the arrest is under subsection (1) in Northern Ireland or under subsection (3) in England and Wales, the constable has the powers of entry and search conferred by section 137E;

(b) where the arrest is under subsection (1) or (3) in Scotland, the constable has the same powers of entry and search for the purpose of the arrest as a constable of a police force in Scotland would have if there were reasonable grounds for suspecting that the offence had been committed or attempted in Scotland;

(c) the constable has the powers conferred by section 139 in relation to the arrested person;

(d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.**]**

[[F248](7B) Where a constable arrests a person under a power exercised by virtue of subsection (2) above, any enactment or rule of law which concerns—

(a) the powers and duties of a constable who effects an arrest under the power;

(b) the rights of a person arrested under the power;

(c) the procedures to be followed after an arrest under the power,

applies in relation to the arrest (subject to the modifications set out in section 137ZA) as though the arrest had been effected in Scotland and, if the constable who executed it is not a constable of a police force in Scotland, as though the constable were.**]**

[F249](8) ...

[F250](a) . . . . . .

[F251](b) . . . . . .

[F251](c) . . . . . .

(9) In this section—

[F252] . . . . . .

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[[F253]"designated police station" has the same meaning as in the Police and Criminal Evidence Act 1984 or, in relation to Northern Ireland, as in **[**[F254]the Police and Criminal Evidence (Northern Ireland) Order 1989**]**; 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

F233 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)

F234 Words in s. 137(2) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(a)** (with art. 5(2))

F235 S. 137(2A) inserted (14.12.2001) by 2001 c. 24, ss. 101, 127(2)(f), **Sch. 7 para. 18**

F236 Words in s. 137(2A) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 6(b)**; S.I. 2018/227, art. 2(g)

F237 Words in s. 137(3) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 2(2)**; S.I. 2018/227, art. 2(g)

F238 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)

F239 S. 137(6) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 2(3)**; S.I. 2018/227, art. 2(g)

F240 Words in s. 137(7) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(b)(i)** (with art. 5(2))

F241 S. 137(7)(ba)-(bc) substituted for s. 137(7)(b) (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(b)(ii)** (with art. 5(2))

F242 S. 137(7)(c) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(b)(iii)** (with art. 5(2))

F243 Words in s. 137(7)(d) inserted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(b)(iv)(aa)** (with art. 5(2))

F244 Words in s. 137(7)(d) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(b)(iv)(bb)** (with art. 5(2))

F245 S. 137(7)(da)(db) inserted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(b)(v)** (with art. 5(2))

F246 S. 137(7)(e) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(b)(vi)** (with art. 5(2))

F247 S. 137(7A) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 8(2)**; S.I. 2018/227, art. 2(g)

F248 S. 137(7B) inserted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(c)** (with art. 5(2))

F249 S. 137(8) repealed (S.) (1.3.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), **art. 14(4)** (with art. 14(2))

F250 S. 137(8)(a) omitted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 8(3)**; S.I. 2018/227, art. 2(g)

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F251 S. 137(8)(b)(c) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 3(d)** (with art. 5(2))

F252 Words in s. 137(9) omitted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 2(4)**; S.I. 2018/227, art. 2(g)

F253 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)

F254 Words in s. 137(9) substituted (1.3.2018) by The Policing and Crime Act 2017 (Consequential Amendments) Regulations 2018 (S.I. 2018/226), regs. 1, **7(2)**

Modifications etc. (not altering text)

C65 Ss. 136-139 applied (with modifications) (25.6.2013) by Crime and Courts Act 2013 (c. 22), **s. 55(7)**(8)61(2) (with Sch. 21 paras. 40, 42, 43); S.I. 2013/1042, art. 4(g)

C66 S. 137 applied (with modifications) (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(2)-(5)**

[F255 137ZA Arrest under section 136 or 137 in connection with offence in Scotland

(1) This section makes provision about the application of Part 1 of the Criminal Justice (Scotland) Act 2016 ("the 2016 Act") in relation to a person who is arrested by a constable—

(a) in execution of a warrant under section 136(2)(a) or (3)(b); or

(b) under section 137(2).

(2) If, following the arrest, the arrested person is to be taken directly to a place in Scotland to be held in custody, at the same time as being informed in accordance with section 3 of the 2016 Act of the matters mentioned in that section, the person must also be informed of the person's right to have intimation sent under section 38 of the 2016 Act.

(3) Section 4 of the 2016 Act applies subject to the following modifications—

(a) subsection (1) does not apply;

(b) in subsection (2), as it applies in relation to a person arrested under section 137(2) of this Act, the reference to subsection (1) and the words "this section" in paragraph (b) are to be read as references to section 137(7) of this Act;

(c) in subsection (3), the reference to subsection (1) and the words "this section" are to be read as references to section 136(4) or (as the case may be) section 137(7) of this Act.

(4) In each of sections 5(1)(b), 7(2)(b), 15(3) and 37(4)(b) of the 2016 Act, the reference to section 4 of that Act is to be read as a reference to section 136(4) or (as the case may be) section 137(7) of this Act.

(5) References in Part 1 of the 2016 Act to a police station are to be read as including police stations in England, Wales and Northern Ireland.

(6) If the arrested person is in a police station in England, Wales or Northern Ireland, sections 33(6)(b)(ii) and 42(5)(b)(ii) of the 2016 Act are to be read as though they referred to any person who performs at that police station a function which is equivalent to a function performed at police stations in Scotland by members of police staff appointed under section 26(1) of the Police and Fire Reform (Scotland) Act 2012.]

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Textual Amendments

F255 S. 137ZA inserted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 4** (with art. 5(2))

[F256 137A Additional cross-border powers of arrest etc: urgent cases

(1) A constable of a police force in England and Wales may arrest a person in England and Wales without a warrant if—

(a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in Scotland or in Northern Ireland, and

(b) the constable also has reasonable grounds for believing that it is necessary to arrest the person—

(i) to allow the prompt and effective investigation of the offence, or

(ii) to prevent any prosecution for the offence from being hindered by the disappearance of the person.

(2) A constable of a police force in Scotland may arrest a person in Scotland without a warrant if—

(a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in England and Wales or in Northern Ireland, and

(b) the constable is satisfied that it would not be in the interests of justice to delay the arrest either to enable a warrant for the person's arrest to be obtained and then executed under section 136 or to enable a power of arrest under section 137 to be exercised.

(3) Without prejudice to the generality of subsection (2)(b), it would not be in the interests of justice to delay an arrest for a purpose mentioned in that subsection if the constable reasonably believes that, unless the person is arrested without delay, the person will obstruct the course of justice in any way, including by seeking to avoid arrest or interfering with witnesses or evidence.

(4) A constable of a police force in Northern Ireland may arrest a person in Northern Ireland without a warrant if—

(a) the constable has reasonable grounds for suspecting that the person has committed a specified offence in England and Wales or in Scotland, and

(b) the constable also has reasonable grounds for believing that it is necessary to arrest the person—

(i) to allow the prompt and effective investigation of the offence, or

(ii) to prevent any prosecution for the offence from being hindered by the disappearance of the person.

(5) The power conferred by subsection (1) or (2) may be exercised by a constable appointed under section 24 of the Railways and Transport Safety Act 2003 in England and Wales or (as the case may be) in Scotland.

(6) The following provisions apply in relation to an arrest under this section by a constable of a person suspected of having committed a specified offence in England and Wales or in Northern Ireland—

Status: *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 09 June 2020. 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) View outstanding changes*

(a) where the arrest is in England and Wales under subsection (1) or in Northern Ireland under subsection (4), the constable has the powers of entry and search conferred by section 137E;

(b) where the arrest is in Scotland under subsection (2), the constable has the same powers of entry and search for the purpose of the arrest as a constable of a police force in Scotland would have if there were reasonable grounds for suspecting that the offence had been committed in Scotland;

(c) the constable has the powers conferred by section 139 in relation to the arrested person;

(d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.

(7) Where a constable is arresting under this section a person suspected of having committed a specified offence in Scotland, the constable has the same powers as a constable of a police force in Scotland would have if arresting the person for the offence in Scotland.

(8) In this section—

"constable of a police force", in relation to Northern Ireland, means a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

"specified offence" has the meaning given by section 137B.

Textual Amendments

F256 Ss. 137A-137D inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 116(1)**, 183(1)(5)(e); S.I. 2018/227, art. 2(f)

137B Meaning of "specified offence" for the purposes of section 137A

(1) In section 137A, "specified offence" has the meaning given by this section.

(2) An offence committed in England and Wales is a specified offence if it is—

(a) an offence (including an offence under the common law) that is punishable by virtue of any statutory provision with imprisonment or another form of detention for a term of 10 years or with a greater punishment,

(b) an offence specified in Part 1 of Schedule 7A,

(c) an offence of attempting or conspiring to commit, or of inciting the commission of, an offence mentioned in paragraph (a) or (b), or

(d) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to an offence mentioned in paragraph (a) or (b).

(3) An offence committed in Scotland is a specified offence if it is—

(a) an offence (including an offence under the common law) that is punishable by virtue of any statutory provision with imprisonment or another form of detention for a term of 10 years or with a greater punishment,

(b) an offence specified in Part 2 of Schedule 7A, or

(c) an offence of attempting or conspiring to commit, or of inciting the commission of, an offence mentioned in paragraph (a) or (b).

(4) An offence committed in Northern Ireland is a specified offence if it is—

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(a) an offence (including an offence under the common law) that is punishable by virtue of any statutory provision with imprisonment or another form of detention for a term of 10 years or with a greater punishment,

(b) an offence specified in Part 3 of Schedule 7A,

(c) an offence of attempting or conspiring to commit, or of inciting the commission of, an offence mentioned in paragraph (a) or (b), or

(d) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to an offence mentioned in paragraph (a) or (b).

(5) The Secretary of State may by regulations made by statutory instrument amend Part 1, 2 or 3 of Schedule 7A so as to add an offence to, or remove an offence from, the offences for the time being specified in the Part.

(6) Regulations under subsection (5) may add an offence to a Part of Schedule 7A only if—

(a) the offence is indictable, and

(b) the Secretary of State considers that it is necessary in the interests of justice to add the offence to the Part.

(7) For the purpose of subsection (6)(a), an offence is indictable if—

(a) in the case of an offence under the law of England and Wales, it is an indictable offence in England and Wales;

(b) in the case of an offence under the law of Scotland, it may be tried on indictment in Scotland;

(c) in the case of an offence under the law of Northern Ireland, it is an indictable offence in Northern Ireland.

(8) The Secretary of State may not make regulations under subsection (5) unless the Scottish Ministers and the Department of Justice in Northern Ireland consent to the making of the regulations.

(9) A statutory instrument containing regulations under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(10) In this section—

(a) a description of an offence in subsection (2)(a) or (b) or (4)(a) or (b) includes such an offence committed by aiding, abetting, counselling or procuring;

(b) a description of an offence in subsection (3)(a) or (b) includes such an offence committed by involvement art and part or by aiding, abetting, counselling or procuring;

(c) "statutory provision" means any provision of—

(i) an Act or subordinate legislation within the meaning of the Interpretation Act 1978;

(ii) an Act of the Scottish Parliament or an instrument made under such an Act;

(iii) a Measure or Act of the National Assembly for Wales or an instrument made under such a Measure or Act;

(iv) Northern Ireland legislation or an instrument made under Northern Ireland legislation.

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Textual Amendments

F256 Ss. 137A-137D inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 116(1)**, 183(1)(5)(e); S.I. 2018/227, art. 2(f)

137C Detention for the purpose of re-arrest

(1) A person arrested under section 137A in respect of a specified offence may be detained but only for the purpose of—

(a) enabling a warrant for the person's arrest in respect of the offence to be obtained and then executed under section 136, or

(b) enabling the person to be re-arrested under section 137.

(2) The person may be detained for that purpose—

(a) for an initial period of 3 hours beginning with the time of the arrest;

(b) for a second period of no more than 21 hours beginning with the end of the initial period, but only if detention for that period is authorised by both an officer of at least the rank of inspector in the arresting force and an officer of at least the rank of inspector in the investigating force;

(c) for a third period of no more than 12 hours beginning with the end of the second period, but only if detention for that period is authorised by both an officer of a rank above that of inspector in the arresting force and an officer of a rank above that of inspector in the investigating force.

(3) An officer of the arresting force may give an authorisation for the purpose of subsection (2)(b) or (c) only if satisfied that it is in the interests of justice to do so.

(4) An officer of the investigating force may give an authorisation for the purpose of subsection (2)(b) only if satisfied that—

(a) there are reasonable grounds to suspect that the person has committed the specified offence,

(b) a constable intends that the person be arrested as soon as is reasonably practicable (whether by the obtaining and execution of a warrant under section 136 or under section 137) and is acting expeditiously for that purpose, and

(c) it is in the interests of justice to give the authorisation.

(5) An officer of the investigating force may give an authorisation for the purpose of subsection (2)(c) only if satisfied that—

(a) there continue to be reasonable grounds to suspect that the person has committed the specified offence,

(b) a constable intends that the person be arrested as soon as is reasonably practicable (whether by the obtaining and execution of a warrant under section 136 or under section 137) and is acting expeditiously for that purpose, and

(c) it is in the interests of justice to give the authorisation.

(6) If, at any time while the person is detained, an appropriate officer in the investigating force is satisfied that it is no longer in the interests of justice for the person to be detained—

(a) the officer must notify the arresting force, and

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(b) the person must be released immediately.

(7) In subsection (6), "appropriate officer" means—

(a) in relation to the person's detention for the initial period, any constable;

(b) in relation to the person's detention for the second period, an officer of at least the rank of inspector;

(c) in relation to the person's detention for the third period, an officer of a rank above that of inspector.

(8) In this section—

"arresting force" means the police force of which the constable who arrested the person under section 137A is a member;

"investigating force" means the police force that is investigating the specified offence which the person arrested under section 137A is suspected of having committed;

"specified offence" has the same meaning as in section 137A (see sections 137A(8) and 137B).

(9) In subsection (8), in the definition of "investigating force", the reference to a police force includes a reference to—

(a) the National Crime Agency;

(b) any of the following (to the extent that their functions relate to the investigation of offences)—

(i) officers of Revenue and Customs;

(ii) immigration officers;

(iii) designated customs officials within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act).

(10) In the application of this section in a case where the investigating force is a police force mentioned in subsection (9)(a) or (b)—

(a) the reference to a constable in subsections (4)(b) and (5)(b), and the reference to a constable in the investigating force in subsection (7)(a), is to be read as a reference to a National Crime Agency officer designated under section 9 or 10 of the Crime and Courts Act 2013 ("a designated NCA officer"), an officer of Revenue and Customs, an immigration officer or a designated customs official (as the case may be);

(b) any reference to an officer of at least, or above, the rank of inspector in the investigating force is to be read as a reference to a designated NCA officer, an officer of Revenue and Customs, an immigration officer or a designated customs official (as the case may be) of at least, or above, the equivalent grade.

Textual Amendments

F256 Ss. 137A-137D inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 116(1)**, 183(1)(5)(e); S.I. 2018/227, art. 2(f)

Modifications etc. (not altering text)

C67 S. 137C applied (with modifications) by 2007 c. 11, s. 87(2A)(2C) (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 9(2)**; S.I. 2018/227, art. 2(g))

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C68 S. 137C applied (with modifications) by 2013 c. 22, Sch. 21 para. 42A, 42C (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 10(3)**; S.I. 2018/227, art. 2(g))

137D Rights of persons arrested under section 137A

(1) A person arrested under section 137A must be informed of the following matters as soon as is practicable after the arrest—

(a) the purpose for which the person may be detained under section 137C;

(b) the provision made by that section about the periods for which the person may be detained.

(2) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in England and Wales (subject to the modifications made by Part 1 of Schedule 7B)—

(a) section 28 of the Police and Criminal Evidence Act 1984 (information to be given on arrest);

(b) section 56 of that Act (right to have someone informed when arrested);

(c) section 58 of that Act (access to legal advice);

(d) section 31 of the Children and Young Persons Act 1933 (separation of children and young persons from adults in police stations, courts etc);

(e) section 34 of that Act (additional protection for children and young persons).

(3) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in Scotland (subject to the modifications made by Part 2 of Schedule 7B)—

(a) section 3 of the Criminal Justice (Scotland) Act 2016 (asp 1) (information to be given on arrest);

(b) Chapter 5 of Part 1 of that Act (rights of suspects in police custody);

(c) section 51 of that Act (duty to consider child's well-being);

(d) section 52 of that Act (duties in relation to children in custody).

(4) The following provisions apply in relation to persons arrested under section 137A in respect of a specified offence committed in Northern Ireland (subject to the modifications made by Part 3 of Schedule 7B)—

(a) Article 30 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (information to be given on arrest);

(b) Article 57 of that Order (right to have someone informed when arrested);

(c) Article 59 of that Order (access to legal advice);

(d) Article 9 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I.9)) (separation of child in police detention from adults charged with offences);

(e) Article 10 of that Order (additional protection for children and young persons).

(5) The Secretary of State may by regulations made by statutory instrument—

(a) amend this section so as to add to the provisions that for the time being apply as mentioned in subsection (2), (3) or (4);

(b) amend this section so as to remove any of those provisions that were added by virtue of paragraph (a);

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(c) amend Schedule 7B so as to alter the modifications for the time being made by that Schedule, including by adding a modification or removing one;

(d) amend Schedule 7B so as to provide that any of the provisions that for the time being apply as mentioned in subsection (2), (3) or (4) do not apply in cases or circumstances set out in the Schedule.

(6) Regulations under subsection (5) may include consequential provision, including provision amending any statutory provision; and, for that purpose, statutory provision has the same meaning as in section 137B (see subsection (10)(c) of that section).

(7) The Secretary of State may not make regulations under subsection (5) unless the Scottish Ministers and the Department of Justice in Northern Ireland consent to the making of the regulations.

(8) A statutory instrument containing regulations under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(9) In the application of Schedule 7B in a case where the investigating force is a police force mentioned in section 137C(9)(a) or (b), any reference to an officer of at least, or above, a particular rank in the investigating force is to be read as a reference to a designated NCA officer, an officer of Revenue and Customs, an immigration officer or a designated customs official (as the case may be) of at least, or above, the equivalent grade.**]**

Textual Amendments

F256 Ss. 137A-137D inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 116(1)**, 183(1)(5)(e); S.I. 2018/227, art. 2(f)

[F257 137E Entry and search for the purposes of arrest

(1) A constable may enter and search any premises—

(a) for the purpose of executing in England and Wales under section 136(2)(b) a warrant issued in Northern Ireland;

(b) for the purpose of executing in Northern Ireland under section 136(3)(a) a warrant issued in England and Wales;

(c) for the purpose of arresting a person in Northern Ireland under section 137(1) in respect of a relevant England and Wales offence;

(d) for the purpose of arresting a person in England and Wales under section 137(3) in respect of a relevant Northern Ireland offence;

(e) for the purpose of arresting a person in England and Wales under section 137A(1) in respect of a specified offence committed in Northern Ireland;

(f) for the purpose of arresting a person in Northern Ireland under section 137A(4) in respect of a specified offence committed in England and Wales.

(2) In subsection (1)—

(a) "relevant England and Wales offence" means—

(i) an offence that is an indictable offence in England and Wales;

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(ii) an offence mentioned in section 17(1)(c) or (caa) of the Police and Criminal Evidence Act 1984;

(b) "relevant Northern Ireland offence" means—

(i) an offence that is an indictable offence in Northern Ireland;

(ii) an offence mentioned in Article 19(1)(ba) to (c) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)).

(3) The powers of entry and search conferred by subsection (1)—

(a) are exercisable only if the constable has reasonable grounds for believing that the person whom he is seeking is on the premises, and

(b) are limited, in relation to premises consisting of two or more separate dwellings, to powers to enter and search—

(i) any part of the premises which the occupier of any dwelling comprised in the premises uses in common with the occupier of any other such dwelling, and

(ii) any such dwelling in which the constable has reasonable grounds for believing that the person whom he is seeking may be.

(4) The power of search conferred by subsection (1) is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.

(5) In this section, "premises" includes any place and, in particular, includes—

(a) any vehicle, vessel, aircraft or hovercraft,

(b) any offshore installation,

(c) any renewable energy installation, and

(d) any tent or movable structure.

"Offshore installation" has the meaning given to it by section 44 of the Petroleum Act 1998.

"Renewable energy installation" has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act).**]**

Textual Amendments

F257 S. 137E inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 117**, 183(1)(5)(e); S.I. 2018/227, art. 2(f)

138 Powers of arrest etc.: supplementary provisions.

(1) The following provisions have effect to supplement section 137 ("the principal section").

F258(1A) . . . . . .

F258(1B) . . . . . .

F258(2) . . . . . .

F258(2A) . . . . . .

F259(3) . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
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[F259](4) . . . . . .

[F259](5) . . . . . .

[F260](6) . . . . . .

[F260](7) . . . . . .

[F260](8) . . . . . .

[F260](9) . . . . . .

Textual Amendments

F258 S. 138(1A)-(2A) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 5(a)** (with art. 5(2))

F259 S. 138(3)-(5) omitted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 17 para. 3; S.I. 2018/227, art. 2(g)

F260 S. 138(6)-(9) repealed (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 5(b)** (with art. 5(2))

Modifications etc. (not altering text)

C65 Ss. 136-139 applied (with modifications) (25.6.2013) by Crime and Courts Act 2013 (c. 22), **s. 55(7)**(8)61(2) (with Sch. 21 paras. 40, 42, 43); S.I. 2013/1042, art. 4(g)

C69 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 [[F261]sections 136, 137 and 137A].

[[F262](1) The powers conferred by subsections (2) and (3) are available to a constable in relation to—

(a) a person arrested under section 136(1), (2)(b) or (3)(a);

(b) a person arrested under section 137(1) or (3);

(c) a person arrested under section 137A in respect of a specified offence committed in England and Wales or Northern Ireland.]

(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

[F263](b) . . . . . .

[[F264](3A) The powers conferred by subsection (3B) are available to a constable in relation to—

(a) a person arrested under section 136(1) or (3)(a) in the execution of a warrant issued in England and Wales in respect of an offence that is an indictable offence in England and Wales;

(b) a person arrested under section 136(1) or (2)(b) in the execution of a warrant issued in Northern Ireland in respect of an offence that is an indictable offence in Northern Ireland;

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(c) a person arrested under section 137(1) in respect of an offence that is an indictable offence in England and Wales;

(d) a person arrested under section 137(3) in respect of an offence that is an indictable offence in Northern Ireland;

(e) a person arrested under section 137A(2) or (4) in respect of a specified offence committed in England and Wales;

(f) a person arrested under section 137A(1) or (2) in respect of a specified offence committed in Northern Ireland.

(3B) The constable may enter and search any premises in which the person was when arrested or immediately before he was arrested for evidence relating to the offence.**]**

(4) The power to search conferred by subsection (3) **[**[F265]or (3B)**]** 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 **[**[F266]subsection (3B)**]** above unless he has reasonable grounds for believing that there is evidence for which a search is permitted under **[**[F267]that subsection**]**.

(8) In so far as the power of search conferred by **[**[F268]subsection (3B)**]** 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.

[[F269](10A) Where a constable of a police force in England and Wales searches premises in the exercise of the power conferred by subsection (3B) or where a constable of the British Transport Police searches premises in England and Wales in the exercise of that power—

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(a) the constable has the same powers as the constable would have under section 19 of the Police and Criminal Evidence Act 1984 if the search had taken place under section 32(2)(b) of that Act, and

(b) sections 21 and 22 of that Act apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.

(10B) Where a constable of a police force in Northern Ireland searches premises in the exercise of the power conferred by subsection (3B)—

(a) the constable has the same powers as the constable would have under Article 21 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) if the search had taken place under Article 34(2)(b) of that Order, and

(b) Articles 23 and 24 of that Order apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.

(10C) Where a constable of a police force in Scotland searches premises in the exercise of the power conferred by subsection (3B), or where a constable of the British Transport Police searches premises in Scotland in the exercise of that power, the constable has the same powers of seizure and retention as the constable would have if the search had taken place in the exercise of a power of the constable (by virtue of any rule of law) in relation to a person arrested and charged with an offence by the constable in Scotland.**]**

(11) Nothing in this section shall be taken to affect the power conferred by **[**[F270]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 [M134]Police and Criminal Evidence Act 1984;

(b) as respects anything in the possession of a person searched in Scotland, by **[**[F271]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 [M135]Police and Criminal Evidence (Northern Ireland) Order 1989;

"premises" includes any place and, in particular, includes—

(a) any vehicle, vessel, aircraft or hovercraft;

(b) any offshore installation;

(ba) **[**[F272]any any renewable energy installation;**]** and

(c) any tent or movable structure; [F273]...

"offshore installation" has the meaning given to it by **[**[F274]section 44 of the Petroleum Act 1998**][**[F275]; and

"renewable energy installation" has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act).**]**

Textual Amendments

F261 Words in s. 139 heading substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(2)**; S.I. 2018/227, art. 2(g)

Status: *This version of this Act contains provisions that are prospective.*
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F262 S. 139(1) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(3)**; S.I. 2018/227, art. 2(g)

F263 S. 139(3)(b) omitted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(4)**; S.I. 2018/227, art. 2(g)

F264 S. 139(3A)(3B) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(5)**; S.I. 2018/227, art. 2(g)

F265 Words in s. 139(4) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(6)**; S.I. 2018/227, art. 2(g)

F266 Words in s. 139(7) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(7)(a)**; S.I. 2018/227, art. 2(g)

F267 Words in s. 139(7) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(7)(b)**; S.I. 2018/227, art. 2(g)

F268 Words in s. 139(8) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(8)**; S.I. 2018/227, art. 2(g)

F269 S. 139(10A)-(10C) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(9)**; S.I. 2018/227, art. 2(g)

F270 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)**

F271 Words in s. 139(12) substituted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 24**; S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended by S.I. 2003/333, **art. 14**)

F272 Words in s. 139(12) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(10)(a)**; S.I. 2018/227, art. 2(g)

F273 Word in s. 139(12) omitted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(10)(b)**; S.I. 2018/227, art. 2(g)

F274 Words in s. 139(12) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(10)(c)**; S.I. 2018/227, art. 2(g)

F275 Words in s. 139(12) inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(10)(d)**; S.I. 2018/227, art. 2(g)

Modifications etc. (not altering text)

C65 Ss. 136-139 applied (with modifications) (25.6.2013) by Crime and Courts Act 2013 (c. 22), **s. 55(7)**(8)61(2) (with Sch. 21 paras. 40, 42, 43); S.I. 2013/1042, art. 4(g)

C70 S. 139 applied (with modifications) (19.7.2007) by Finance Act 2007 (c. 11), **s. 87(2)-(5)**

C71 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

M134 1984 c. 60.

M135 S.I. 1989/1341 (N.I. 12).

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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 **[**[F276]section 24**]** of the [M136]Police and Criminal Evidence Act 1984 **[**[F277](arrest without warrant)**]** 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, **[**[F278]any enactment or rule of law which concerns—

(a) the powers and duties of a constable who effects an arrest under a power which a constable of the Police Service of Scotland could have exercised to effect the arrest;

(b) the rights of a person arrested under that power of arrest;

(c) the procedures to be followed after an arrest under that power,

applies in relation to the arrest as though the constable who effected the arrest were 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 **[**[F279]Article 26**]** of the [M137]Police and Criminal Evidence (Northern Ireland) Order 1989 **[**[F280](arrest without warrant)**]** 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.

[F281]**[**(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

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and Wales, include a constable appointed under **[**[F282]section 24 of the Railways and Transport Safety Act 2003**].]**

(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

F276 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)

F277 Words in s. 140(1) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 5(a)**; S.I. 2018/227, art. 2(g)

F278 Words in s. 140(4) substituted (25.1.2018) by The Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018 (S.I. 2018/46), art. 2(2)(a)(f), **Sch. 1 para. 6** (with art. 5(2))

F279 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)**

F280 Words in s. 140(5) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 5(b)**; S.I. 2018/227, art. 2(g)

F281 S. 140(6A) inserted (14.12.2001) by 2001 c. 24, ss. 101, 127(2)(f), **Sch. 7 para. 19**

F282 Words in s. 140(6A) substituted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 6(c)**; S.I. 2018/227, art. 2(g)

Marginal Citations

M136 1984 c. 60.

M137 S.I. 1989/1341 (N.I. 12).

[[F283]**141** . . . . . .

Textual Amendments

F283 S. 141 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**

PART XI

SEXUAL OFFENCES

Rape

142 Rape of women and men.

[F284] . . . . . .

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Textual Amendments

F284 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.

F285 . . . . . .

Textual Amendments

F285 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.

F286 . . . . . .

Textual Amendments

F286 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

F287 145 . . . . . .

Textual Amendments

F287 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)**

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 M138 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

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(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 [M139]Sexual Offences Act 1967 (homosexual acts on merchant ships) is repealed.

[F288](4) . . . . . .

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

F288 S. 146(4) omitted (27.4.2017) by virtue of Merchant Shipping (Homosexual Conduct) Act 2017 (c. 26), **ss. 1**, 2(1)

Marginal Citations

M138 1980 c. 62.
M139 1967 c. 60.

147 Homosexuality on merchant ships and in the armed forces: Northern Ireland.

(1) In the [M140]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.

[F289](3) . . . . . .

Textual Amendments

F289 S. 147(3) omitted (27.4.2017) by virtue of Merchant Shipping (Homosexual Conduct) Act 2017 (c. 26), **ss. 1**, 2(1)

Marginal Citations

M140 S.I. 1982/1536 (N.I. 19).

148 Amendment of law relating to homosexual acts in Scotland.

In section 80(6) of the [M141]Criminal Justice (Scotland) Act 1980 (which defines "homosexual act" for the purpose of section 80), after "gross indecency" there is inserted " or shameless indecency ".

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Marginal Citations
M141 1980 c. 62.

PART XII

MISCELLANEOUS AND GENERAL

The Parole Board

149 Incorporation of the Parole Board.

In section 32 of the [M142]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
M142 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) ".

Prisons: powers in relation to prisoners, visitors and others

151 Power to test prisoners for drugs.

(1) After section 16 of the [M143]Prison Act 1952 there shall be inserted the following section—

"**16A** "**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.

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(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 [M144]Misuse of Drugs Act 1971;

"intimate sample" has the same meaning as in Part V of the [M145]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 [M146]Prisons (Scotland) Act 1989 there shall be inserted the following section—

"**41B** "**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 [M147]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.".

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

M143 1952 c. 52.
M144 1971 c. 38.
M145 1984 c. 60.
M146 1989 c. 45.
M147 1971 c. 38.

152 Powers of search by authorised employees in prisons.

(1) In the [M148]Prison Act 1952, after section 8, there shall be inserted the following section—

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"**8A** "**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 [M149]Prisons (Scotland) Act 1989, after section 41, there shall be inserted the following section—

"**41A** "**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—
  (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

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"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

M148 1952 c. 52.
M149 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 [M150]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—

"(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

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(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;

(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

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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 [M151]Misuse of Drugs Act 1971;

"firearm" and "ammunition" have the same meanings as in the [M152]Firearms Act 1968;

"offensive weapon" has the same meaning as in the [M153]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

M150 1993 c. 13.
M151 1971 c. 38.
M152 1968 c. 27.
M153 1953 c. 14.

Harassment, alarm or distress

154 Offence of causing intentional harassment, alarm or distress.

In Part I of the [M154]Public Order Act 1986 (offences relating to public order), after section 4, there shall be inserted the following section—

"4A "**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

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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

M154 1986 c. 64.

Offence of racially inflammatory publication etc. to be arrestable

155 Offence of racially inflammatory publication etc. to be arrestable.

F290 . . . . . .

Textual Amendments

F290 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)

Prohibition on use of cells from embryos or foetuses

156 Prohibition on use of cells from embryos or foetuses.

(1) The M155Human Fertilisation and Embryology Act 1990 shall be amended as follows.

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

“3A “**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

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"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
M155 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.

(4) Any reference in column 2 of Part II of Schedule 8 to this Act to a numbered column of Schedule 4 to the [M156]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 [M157]Firearms Act 1968 is a reference to the column of that number construed with section 51(2)(b) of that Act; or

(b) **[**[F291]to a numbered column of Schedule 2 to the [M158]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 [M159]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

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the maximum fines were increased by Part II of Schedule 8 to the Criminal Justice and Public Order Act 1994.".

[F292](7) . . . . . .

(8) Article 17 of the [M160]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 [M161]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 [M162]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

F291 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**

F292 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

M156 1971 c. 38.
M157 1968 c. 27.
M158 S.I. 1981/155 (N.I.2).
M159 1980 c. 43.
M160 S.I. 1984/703 (N.I.3).
M161 1971 c. 38.
M162 1994 c. 33.

Extradition procedures

158 Extradition procedures.

[F293] . . . . . .

Textual Amendments

F293 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)**)

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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.

F294 . . . . . .

Textual Amendments

F294 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.

F295(1) . . . . . .

(2) Section 17 of the M163Police (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—

"(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

F295 S. 160(1) repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**

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Marginal Citations
M163 1967 c. 77.

Obtaining computer-held information

[F296]161 . . . . . .

Textual Amendments
F296 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 [M164]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. ".

Marginal Citations
M164 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;

[[F297](b) providing within their area an electronic communications service which is distributed—

(i) only to persons on a single set of premises; and

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(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 **[**[F298]electronic 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 **[**[F299]or, in Scotland, the local commander designated for the local authority's area**]** in which the step is to be taken.

[[F300](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—

[F301]…

"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 [M165]Local Government (Scotland) Act 1973; and

[[F302]"local commander" has the meaning given by section 44 of the Police and Fire Reform (Scotland) Act 2012 (asp 8);**]**

[[F303]"premises" includes a vehicle; and

" vehicle " includes a vessel, aircraft or hovercraft. **]**

(5) Until 1st April 1996, in this section "local authority" means, in Wales, a county council or district council.

Textual Amendments

F297 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)

F298 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)

F299 Words in s. 163(3) inserted (E.W.NI) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 4(3)(a)** and words in s. 163(3) inserted (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 9(3)(a)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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F300 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)

F301 Words in s. 163(4) omitted (E.W.NI.) (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 4(3)(b)(i)** and words in s. 163(4) repealed (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F302 Words in s. 163(4) inserted (E.W.NI.) (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 1 para. 4(3)(b)(ii)** and words in s. 163(4) inserted (S.) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 9(3)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F303 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

M165 1973 c. 65.

Serious fraud

164 Extension of powers of Serious Fraud Office and of powers to investigate serious fraud in Scotland.

(1) [F304] . . . . . .

(2) Section 2 of the [M166]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 [M167]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 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.";

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(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) **[**[F305]In section 51(1) of the [M168]Criminal 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 [M169]Criminal 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) **[**[F306]In section 52 of the [M170]Criminal 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, 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—

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""evidence", in relation to a relevant request, includes documents and other articles;".**]**

Textual Amendments

F304 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)**

F305 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.

F306 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

M166 1987 c. 38.
M167 1990 c. 5.
M168 1987 c. 41.
M169 1990 c. 5.
M170 1987 c. 41.

PROSPECTIVE

Copyright and illicit recordings: enforcement of offences

165 Enforcement of certain offences relating to copyright and illicit recordings.

(1) The [M171]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 "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 [M172]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 107 in Northern Ireland, but it is the duty of the Department of Economic Development to enforce that section in Northern Ireland.

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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** “**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 [M173]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.”.

Marginal Citations

M171 1988 c. 48.

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M172 1968 c. 29.
M173 1968 c. 29.

Ticket touts

166 Sale of tickets by unauthorised persons.

[[F307](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 **[**[F308]or otherwise dispose of**]** tickets for the match [F309]. . . by the organisers of the match;

[[F310](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

[[F311](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 **[**[F312]this section by order made by the Secretary of State**]**.**]**

[[F313](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) [F314]. . . . . .

(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—

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(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;

(b) an officer is duly authorised if he is authorised in writing to sign a ticket sale certificate by [F315]. . . 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

F307 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)**

F308 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)**

F309 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)**

F310 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)**

F311 S. 166(2)(c) substituted (27.9.1999) by 1999 c. 21, **ss. 10**, 12(2) (with s. 12(3))

F312 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)**

F313 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)**

F314 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)

F315 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)**

[F316 166A 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—

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(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,

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

F316 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: *This version of this Act contains provisions that are prospective.*
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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 [M174]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 **[**[F317]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 [M175]Public Passenger Vehicles Act 1981.

(7) [F318] . . . . . .

Textual Amendments

F317 Words in s. 167(4) substituted (1.7.2001) by 2000 c. 38, **s. 265(3)**; S.I. 2001/1498, **art. 3**

F318 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

M174 1985 c. 67.

M175 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).

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(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 **[**[F319]qualifying 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 **[**[F319]qualifying 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.

[[F320](5) In this section "registered political party" means a party registered under **[**[F321]the Political Parties, Elections and Referendums Act 2000**]**.**]**

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Textual Amendments

F319 Words in s. 170(1)(3) substituted (24.3.1999) by 1998 c. 48, **s. 15(1)(2)**; S.I. 1999/393, **art. 2**

F320 S. 170(5) added (24.3.1999) by 1998 c. 48, **s. 15(1)(3)**; S.I. 1999/393, **art. 2**

F321 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, **[**[F322]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.

[[F323](13A) Subject to subsection (14), Chapter 3 of Part 8 extends to Northern Ireland only.**]**

(14) Sections **[**[F324]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, **[**[F325]also**]** extend to that part of those islands, **[**[F326]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 [M176]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

F322 Words in s. 172(8) substituted (1.3.1999) by 1997 c. 21, **s. 8(11)**; S.I. 1999/5, **art. 2**

F323 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)

F324 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)

F325 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)

F326 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

M176 1984 c. 39.

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SCHEDULES

SCHEDULE 1

Section 12.

ESCORT ARRANGEMENTS: ENGLAND AND WALES

Arrangements for the escort of [F327persons detained in youth detention accommodation]

Textual Amendments

F327 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 [F328detained persons] from one set of relevant premises to another;

(b) the custody of [F328detained 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;

[F329(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 [F330a 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 M177Mental 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 M178Criminal Procedure (Insanity) Act 1964 or section 6, 14 or 14A of the M179Criminal 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

F328 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)**

F329 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)**

F330 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)

C72 Sch. 1 para. 1: Transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(j)**

Marginal Citations

M177 1983 c. 20.

M178 1964 c. 84.

M179 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 **[**[F331]detained 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

F331 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)

C73 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 **[**[F332]detained 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 **[**[F332]detained 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 **[**[F333]detained 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

F332 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)**

F333 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—

[[F334]"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;

[F335] . . .

[F336] . . . . . .

[F336] . . . . . .

Status: *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 09 June 2020. 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) View outstanding changes*

Textual Amendments

F334 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)**

F335 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)**

F336 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)

C74 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;

Status: *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 09 June 2020. 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) View outstanding changes*

(b) in the case of a custody officer performing custodial duties at a contracted out secure training centre, it appears to the **[**[F337]monitor**]**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 **[**[F337]governor**]** of that secure training centre that the officer is not a fit and proper person to perform custodial duties.

(2) The escort monitor **[**[F338], 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

F337 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**

F338 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)

C75 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)

C76 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: *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 [M180]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

M180 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.**

"**5A** "**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 [M181]Magistrates' Courts Act 1980 there shall be inserted the following section—

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"43B. Power to grant bail where police bail has been granted.

"43B "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

M181 1980 c. 43.

[F339]SCHEDULE 4

Textual Amendments

F339 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 [M182]Magistrates' Courts Act 1980 ("the 1980 Act") there shall be substituted the following section—

Status: *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 09 June 2020. 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) View outstanding changes*

"**12. Non-appearance of accused: plea of guilty.**

"**12 "12. Non-appearance of accused: plea of guilty.**

(1) This section shall apply where—

(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.

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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 09 June 2020. 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) View outstanding changes*

(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
  (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.".

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Marginal Citations
M182 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—

"**12A. Application of section 12 where accused appears.**

"**12A** "**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 [M183]Magistrates' Courts Act 1980 shall be further amended as follows.

(2) For section 13(4), there shall be substituted the following subsection—

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"(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) ".

Marginal Citations
M183 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;

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(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

(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.

Modifications etc. (not altering text)

C77 Sch. 6 para. 3 applied (with modifications) (temp.) (27.5.2020) by Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 2 para. 3(2)(d)** (with s. 9)

C78 Sch. 6 paras. 3, 4 modified (temp.) (27.5.2020) by Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 2 para. 3(3)** (with s. 9)

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.

Modifications etc. (not altering text)

C78 Sch. 6 paras. 3, 4 modified (temp.) (27.5.2020) by Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 2 para. 3(3)** (with s. 9)

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.

Status: *This version of this Act contains provisions that are prospective.*
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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.

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—

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(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.

[F340SCHEDULE 7A

Section 137B

OFFENCES SPECIFIED FOR THE PURPOSES OF SECTION 137A

Textual Amendments

F340 Sch. 7A inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 15**; S.I. 2018/227, art. 2(g)

PART 1

OFFENCES UNDER THE LAW OF ENGLAND AND WALES

1 Any of the following offences at common law—
(a) false imprisonment;
(b) kidnapping;
(c) indecent exposure;
(d) cheating in relation to the public revenue.

2 An offence under any of the following provisions of the Offences against the Person Act 1861—
(a) section 20 (inflicting bodily injury);
(b) section 24 (administering poison etc with intent);
(c) section 27 (exposing child whereby life is endangered etc);
(d) section 31 (setting spring-guns etc with intent);
(e) section 37 (assaulting an officer etc on account of his preserving wreck);
(f) section 47 (assault occasioning actual bodily harm).

3 (1) An offence under any of the following provisions of the Sexual Offences Act 1956 —
(a) section 10 (incest by a man);
(b) section 11 (incest by a woman);
(c) section 30 (man living on the earnings of prostitution);
(d) section 31 (woman exercising control over a prostitute);
(e) section 33A (keeping a brothel used for prostitution).

(2) An offence under section 12 of that Act (buggery), other than an offence committed by a person where the other person involved in the conduct constituting the offence consented to it and was aged 16 or over.

(3) An offence under section 13 of that Act (indecency between men), where the offence was committed by a man aged 21 or over and the other person involved in the conduct constituting the offence was under the age of 16.

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4 An offence under section 4 of the Criminal Law Act 1967 (assisting offenders).

5 An offence under section 5 of the Sexual Offences Act 1967 (living on the earnings of male prostitution).

6 An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 1(1) (possession etc of firearms or ammunition without certificate);
- (b) section 2(1) (possession etc of shot gun without certificate);
- (c) section 3(1) (manufacturing, selling etc firearms or ammunition by way of trade or business without being registered as a firearms dealer).

7 An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).

8 (1) An offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation of goods), other than an offence mentioned in subsection (5B) of that section.

(2) An offence under section 68(2) of that Act (exportation of prohibited or restricted goods).

(3) An offence under section 170 of that Act (fraudulent evasion of duty etc), other than an offence mentioned in subsection (4B) of that section.

9 An offence under section 4 of the Aviation Security Act 1982 (offences in relation to certain dangerous articles).

10 An offence under section 127 of the Mental Health Act 1983 (ill-treatment of patients).

11 An offence under either of the following provisions of the Child Abduction Act 1984—
- (a) section 1 (abduction of child by parent etc);
- (b) section 2 (abduction of child by other persons).

12 An offence under section 1 of the Prohibition of Female Circumcision Act 1985 (prohibition of female circumcision).

13 An offence under either of the following provisions of the Public Order Act 1986—
- (a) section 2 (violent disorder);
- (b) section 3 (affray).

14 An offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of a child).

15 An offence under section 2 of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences).

16 An offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994 (fraudulent evasion of VATetc).

17 An offence under either of the following provisions of the Protection from Harassment Act 1997—
- (a) section 4 (putting people in fear of violence);
- (b) section 4A (stalking involving fear of violence or serious alarm or distress).

18 An offence under section 29(1)(a) or (b) of the Crime and Disorder Act 1998 (certain racially or religiously aggravated assaults).

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19 An offence under section 38B of the Terrorism Act 2000 (information about acts of terrorism).

20 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (sexual activity with a person aged under 18 in abuse of a position of trust).

21 An offence under section 35 of the Tax Credits Act 2002 (tax credit fraud).

22 (1) An offence under any of the following provisions of the Sexual Offences Act 2003—

(a) section 13 (child sex offences committed by children or young persons);
(b) section 16 (abuse of position of trust: sexual activity with a child);
(c) section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity);
(d) section 18 (abuse of position of trust: sexual activity in the presence of a child);
(e) section 19 (abuse of position of trust: causing a child to watch a sexual act);
(f) section 40 (care workers: sexual activity in the presence of a person with a mental disorder);
(g) section 41 (care workers: causing a person with a mental disorder to watch a sexual act);
(h) section 52 (causing or inciting prostitution for gain);
(i) section 53 (controlling prostitution for gain).

(2) An offence under section 25 or 26 of that Act (family child sex offences) where the offence is committed by a person under the age of 18.

(3) An offence under section 47 of that Act (paying for sexual services of a child), where the offence is committed against a person aged 16 or over.

23 An offence under either of the following provisions of the Terrorism Act 2006—

(a) section 1 (encouragement of terrorism);
(b) section 2 (dissemination of terrorist publications).

24 An offence under section 45 of the Serious Crime Act 2015 (participating in activities of organised crime group).

25 An offence under section 68 of the Policing and Crime Act 2017 (breach of pre-charge bail conditions relating to travel).

PART 2

OFFENCES UNDER THE LAW OF SCOTLAND

26 Any of the following offences at common law—

(a) culpable homicide;
(b) treason;
(c) rape;
(d) assault, where the assault results in serious injury or endangers life;
(e) assault with intent to rape or ravish;
(f) indecent assault;
(g) abduction with intent to rape;
(h) public indecency;
(i) clandestine injury to women;

Status: *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 09 June 2020. 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) View outstanding changes*

(j) lewd, indecent or libidinous behaviour or practices;
(k) sodomy, other than an offence committed by a person where the other person involved in the conduct constituting the offence consented to it and was aged 16 or over;
(l) abduction;
(m) mobbing;
(n) fire-raising;
(o) robbery;
(p) fraud;
(q) extortion;
(r) embezzlement;
(s) theft;
(t) threats;
(u) attempting to pervert the course of justice.

27 An offence under any of the following provisions of the Firearms Act 1968—
(a) section 1(1) (possession etc of firearms or ammunition without certificate);
(b) section 2(1) (possession etc of shot gun without certificate);
(c) section 3(1) (manufacturing, selling etc firearms or ammunition by way of trade or business without being registered as a firearms dealer).

28 An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).

29 (1) An offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation of goods), other than an offence mentioned in subsection (5B) of that section.

(2) An offence under section 68(2) of that Act (exportation of prohibited or restricted goods).

(3) An offence under section 170 of that Act (fraudulent evasion of duty etc), other than an offence mentioned in subsection (4B) of that section.

30 An offence under section 4 of the Aviation Security Act 1982 (offences in relation to certain dangerous articles).

31 An offence under either of the following provisions of the Civic Government (Scotland) Act 1982—
(a) section 51(2) (publication etc of obscene material);
(b) section 52 (taking, distributing etc indecent photographs of children).

32 An offence under section 6 of the Child Abduction Act 1984 (parent etc. taking or sending a child out of the United Kingdom).

33 An offence under section 1 of the Prohibition of Female Circumcision Act 1985 (prohibition of female circumcision).

34 An offence under section 2 of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences).

35 An offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994 (fraudulent evasion of VATetc).

36 An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—

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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 09 June 2020. 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) View outstanding changes*

(a) section 7 (procuring prostitution etc);
(b) section 8(3) (unlawful detention of women and girls);
(c) section 10 (parents etc encouraging girls under 16 to engage in prostitution etc);
(d) section 11(1)(b) (males soliciting etc for immoral purposes).

37 An offence under section 38B of the Terrorism Act 2000 (information about acts of terrorism).

38 An offence under section 35 of the Tax Credits Act 2002 (tax credit fraud).

39 An offence under section 313 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (persons providing care services: sexual offences).

40 An offence under either of the following provisions of the Terrorism Act 2006—
(a) section 1 (encouragement of terrorism);
(b) section 2 (dissemination of terrorist publications).

41 Any of the following offences under the Sexual Offences (Scotland) Act 2009—
(a) section 8 (sexual exposure);
(b) section 9 (voyeurism);
(c) section 11 (administering a substance for sexual purposes);
(d) section 32 (causing an older child to be present during a sexual activity);
(e) section 33 (causing an older child to look at a sexual image);
(f) section 34(1) (communicating indecently with an older child);
(g) section 34(2) (causing an older child to see or hear an indecent communication);
(h) section 35 (sexual exposure to an older child);
(i) section 36 (voyeurism towards an older child);
(j) section 42 (sexual abuse of trust);
(k) section 46 (sexual abuse of trust of a mentally disordered person).

42 An offence under either of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
(a) section 38 (threatening or abusive behaviour);
(b) section 39 (stalking).

43 An offence under section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (disclosing etc an intimate photograph or film).

PART 3

OFFENCES UNDER THE LAW OF NORTHERN IRELAND

44 Any of the following offences at common law—
(a) false imprisonment;
(b) kidnapping;
(c) riot;
(d) affray;
(e) indecent exposure;
(f) cheating in relation to the public revenue.

Status: *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 09 June 2020. 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) View outstanding changes*

45 An offence under any of the following provisions of the Offences against the Person Act 1861—

(a) section 20 (inflicting bodily injury);
(b) section 24 (administering poison etc with intent);
(c) section 27 (exposing child whereby life is endangered etc);
(d) section 31 (setting spring-guns etc with intent);
(e) section 37 (assaulting an officer etc on account of his preserving wreck);
(f) section 47 (assault occasioning actual bodily harm).

46 An offence under section 11 of the Criminal Law Amendment Act 1885 (indecency between men), where the offence was committed by a man aged 21 or over and the other person involved in the conduct constituting the offence was under the age of 16.

47 An offence under either of the following provisions of the Punishment of Incest Act 1908—

(a) section 1 (incest by a man);
(b) section 2 (incest by a woman).

48 An offence under section 4 of the Criminal Law Act (Northern Ireland) 1967 (assisting offenders).

49 An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).

50 (1) An offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation of goods), other than an offence mentioned in subsection (5B) of that section.

(2) An offence under section 68(2) of that Act (exportation of prohibited or restricted goods).

(3) An offence under section 170 of that Act (fraudulent evasion of duty etc), other than an offence mentioned in subsection (4B) of that section.

51 An offence under section 4 of the Aviation Security Act 1982 (offences in relation to certain dangerous articles).

52 An offence under Article 8 of the Homosexual Offences (Northern Ireland) Order 1982 (S.I. 1982/1536 (N.I. 19)) (living on the earnings of male prostitution).

53 An offence under section 1 of the Prohibition of Female Circumcision Act 1985 (prohibition of female circumcision).

54 An offence under either of the following provisions of the Child Abduction (Northern Ireland) Order 1985 (S.I. 1985/1638 (N.I. 17))—

(a) Article 3 (abduction of child by parent etc);
(b) Article 4 (abduction of child by other persons).

55 An offence under Article 121 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) (ill-treatment of patients).

56 An offence under Article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (possession of indecent photograph of a child).

57 An offence under section 2 of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences).

Status: *This version of this Act contains provisions that are prospective.*
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58 An offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994 (fraudulent evasion of VATetc).

59 An offence under Article 6 of the Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9)) (putting people in fear of violence).

60 An offence under section 38B of the Terrorism Act 2000 (information about acts of terrorism).

61 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (sexual activity with a person aged under 18 in abuse of a position of trust).

62 An offence under section 35 of the Tax Credits Act 2002 (tax credit fraud).

63 An offence under section 53 of the Sexual Offences Act 2003 (controlling prostitution for gain).

64 An offence under any of the following provisions of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3))—

(a) Article 3(1)(b) (possession etc of firearms other than handguns without certificate);

(b) Article 3(2) (possession etc of ammunition without certificate);

(c) Article 24(1) (manufacturing, selling etc firearms or ammunition by way of trade or business without being registered as a firearms dealer).

65 An offence under either of the following provisions of the Terrorism Act 2006—

(a) section 1 (encouragement of terrorism);

(b) section 2 (dissemination of terrorist publications).

66 (1) An offence under any of the following provisions of the Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))—

(a) Article 20 (child sex offences committed by children or young persons);

(b) Article 23 (abuse of position of trust: sexual activity with a child);

(c) Article 24 (abuse of position of trust: causing or inciting a child to engage in sexual activity);

(d) Article 25 (abuse of position of trust: sexual activity in the presence of a child);

(e) Article 51 (care workers: sexual activity with a person with a mental disorder);

(f) Article 53 (care workers: sexual activity in the presence of a person with a mental disorder);

(g) Article 62 (causing or inciting prostitution for gain);

(h) Article 63 (controlling prostitution for gain);

(i) Article 64 (keeping a brothel used for prostitution).

(2) An offence under Article 32 or 33 of that Order (family child sex offences) where the offence is committed by a person under the age of 18.

(3) An offence under Article 37 of that Order (paying for sexual services of a child), where the offence is committed against a person aged 16 or over.

67 An offence under section 68 of the Policing and Crime Act 2017 (breach of pre-charge bail conditions relating to travel).**]**

Status: *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 09 June 2020. 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) View outstanding changes*

[F341 SCHEDULE 7B

Section 137D

RIGHTS OF PERSONS ARRESTED UNDER SECTION 137A: MODIFICATIONS

Textual Amendments

F341 Sch. 7B inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 16**; S.I. 2018/227, art. 2(g)

Modifications etc. (not altering text)

C79 Sch. 7B applied (with modifications) by 2013 c. 22, Sch. 21 para. 42B, 42D (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 10(3)**; S.I. 2018/227, art. 2(g))

C80 Sch. 7B applied (with modifications) by 2007 c. 11, s. 87(2B)(2D) (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 9(2)**; S.I. 2018/227, art. 2(g))

PART 1

ARRESTS IN RESPECT OF OFFENCES COMMITTED IN ENGLAND AND WALES

1 (1) This Part sets out the modifications mentioned in section 137D(2), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in England and Wales.

(2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.

(3) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).

2 (1) Section 56 of the Police and Criminal Evidence Act 1984 (right to have someone informed when arrested) is modified as follows.

(2) Subsection (1) is to be read as if (instead of referring to the case where a person has been arrested and is being held in custody in a police station or other premises) it referred to the case where a person has been arrested under section 137A and is being detained under section 137C.

(3) Subsection (2)(a) does not apply.

(4) Subsection (2)(b) is to be read as if (instead of referring to an officer of at least the rank of inspector) it referred—

(a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, to an officer of the investigating force of at least the rank of inspector;

(b) in relation to delay during any remaining period for which the person may be detained under section 137C, to an officer of the investigating force of a rank above that of inspector.

(5) Subsection (3) does not apply.

(6) The reference in subsection (5)(a) to an indictable offence is to be read as a reference to an offence that is an indictable offence under the law of England and Wales.

Status: *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 09 June 2020. 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) View outstanding changes*

(7) Subsection (5A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.

(8) Subsection (6)(b) is to be read as if (instead of referring to a person's custody record) it referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.

(9) Subsection (8) is to be read as if (instead of referring to a person detained at a police station or other premises) it referred to a person detained under section 137C.

3 (1) Section 58 of the Police and Criminal Evidence Act 1984 (access to legal advice) is modified as follows.

(2) Subsection (1) is to be read as if (instead of referring to a person held in custody in a police station or other premises) it referred to a person detained under section 137C.

(3) Subsections (2) and (9)(b) are to be read as if (instead of referring to a person's custody record) they referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.

(4) Subsections (3) and (5) do not apply.

(5) Subsection (6)(a) does not apply.

(6) The reference in subsection (6)(b) to an officer of at least the rank of superintendent is to be read as a reference to an officer of at least that rank in the investigating force.

(7) The reference in subsection (8)(a) to an indictable offence is to be read as a reference to an indictable offence under the law of England and Wales.

(8) Subsection (8A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.

4 (1) Section 34 of the Children and Young Persons Act 1933 (attendance at court of parent of child or young person charged with an offence, etc) is modified as follows.

(2) Subsection (2) is to be read as if (instead of referring to the case where a child or young person is in police detention) it referred to the case where a child or young person is being detained under section 137C.

(3) Subsection (3) is to be read as if (in addition to the information mentioned in paragraphs (a) to (c)) it also mentioned the information set out in section 137D(1)(a) and (b).

(4) The reference in subsection (9) to a child's or young person's rights under section 56 of the Police and Criminal Evidence Act 1984 is to be read as a reference to that section as modified by this Schedule.

PART 2

ARRESTS IN RESPECT OF OFFENCES COMMITTED IN SCOTLAND

5 (1) This Part sets out the modifications mentioned in section 137D(3), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in Scotland.

Status: *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 09 June 2020. 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) View outstanding changes*

(2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.

(3) A reference to a person in police custody in any of those provisions is to be read as a reference to a person detained under section 137C.

(4) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).

6 (1) Section 38 of the Criminal Justice (Scotland) Act 2016 (right to have intimation sent to other person) is modified as follows.

(2) Subsection (6) applies as if (instead of the provision made by that subsection) it defined "an appropriate constable" as being—

(a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;

(b) in relation to delay during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.

7 (1) Section 40 of that Act (right of under 18s to have access to another person) is modified as follows.

(2) Subsection (5) applies as if (instead of the provision made by that subsection) it provided for a decision to refuse or restrict access to a person under subsection (1) or (2) to be taken only by—

(a) in the case of a decision to refuse or restrict access during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;

(b) in the case of a decision to refuse or restrict access during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.

8 (1) Section 41 of that Act (social work involvement in relation to under 18s) is modified as follows.

(2) Subsection (6) applies as if (instead of the provision made by that subsection) it provided for a decision to refuse or restrict access to a person under subsection (4)(b) to be taken only by—

(a) in the case of a decision to refuse or restrict access during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;

(b) in the case of a decision to refuse or restrict access during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.

9 (1) Section 42 of that Act (support for vulnerable persons) is modified as follows.

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(2) Subsection (5)(b)(ii) is to be read as if (instead of referring to a person appointed as a member of police staff under section 26(1) of the Police and Fire Reform (Scotland) Act 2012) it referred to a person who performs a function which is equivalent to a function performed at a police station in Scotland by a person appointed as a member of police staff under section 26(1) of that Act.

10 (1) Section 43 of that Act (right to have intimation sent to solicitor) is modified as follows.

(2) Subsection (1) is to be read as if the list of matters of which a person has a right to have intimation sent to a solicitor—

(a) did not include paragraph (d), but

(b) did include the matters mentioned in section 137D(1)(a) and (b).

11 (1) Section 44 of that Act (right to consultation with solicitor) is modified as follows.

(2) Subsection (3) applies as if (instead of the provision made by that subsection) it provided for a decision to delay the exercise of the right under subsection (1) to be taken only by—

(a) in the case of a delay during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;

(b) in the case of a delay during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.

12 (1) Section 51 of that Act (duty to consider child's wellbeing) is modified as follows.

(2) Subsection (1) is to be read as if it did not include paragraphs (a), (c) and (d).

PART 3

ARRESTS IN RESPECT OF OFFENCES COMMITTED IN NORTHERN IRELAND

13 (1) This Part sets out the modifications mentioned in section 137D(4), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in Northern Ireland.

(2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.

(3) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).

14 (1) Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (right to have someone informed when arrested) is modified as follows.

(2) Paragraph (1) is to be read as if (instead of referring to the case where a person has been arrested and is being held in custody in a police station or other premises) it referred to the case where a person has been arrested under section 137A and is being detained under section 137C.

(3) Paragraph (2)(a) does not apply.

Status: *This version of this Act contains provisions that are prospective.*
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(4) Paragraph (2)(b) is to be read as if (instead of referring to an officer of at least the rank of inspector) it referred—

(a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, to an officer of the investigating force of at least the rank of inspector;

(b) in relation to delay during any remaining period for which the person may be detained under section 137C, to an officer of the investigating force of a rank above that of inspector.

(5) Paragraph (3) does not apply.

(6) The reference in paragraph (5)(a) to an indictable offence is to be read as a reference to an offence that is an indictable offence under the law of Northern Ireland.

(7) Paragraph (5A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.

(8) Paragraph (6)(b) is to be read as if (instead of referring to a person's custody record) it referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.

(9) Paragraph (8) is to be read as if (instead of referring to a person detained at a police station or other premises) it referred to a person detained under section 137C.

15 (1) Article 59 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (access to legal advice) is modified as follows.

(2) Paragraph (1) is to be read as if (instead of referring to a person held in custody in a police station or other premises) it referred to a person detained under section 137C.

(3) Paragraphs (2) and (9)(b) are to be read as if (instead of referring to a person's custody record) they referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.

(4) Paragraphs (3) and (5) do not apply.

(5) Paragraph (6)(a) does not apply.

(6) The reference in paragraph (6)(b) to an officer of at least the rank of superintendent is to be read as a reference to an officer of at least that rank in the investigating force.

(7) The reference in paragraph (8)(a) to an indictable offence is to be read as a reference to an indictable offence under the law of Northern Ireland.

(8) Paragraph (8A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.

16 (1) Article 10 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (duty to inform person responsible for welfare of child in police detention) is modified as follows.

(2) Paragraph (1) is to be read as if (instead of referring to the case where a child is in police detention) it referred to the case where a child is being detained under section 137C.

Status: *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 09 June 2020. 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) View outstanding changes*

(3) That paragraph is also to be read as if (in addition to the information mentioned in sub-paragraphs (a) to (c)) it also mentioned the information set out in section 137D(1)(a) and (b).

(4) The reference in paragraph (6) to a child's rights under Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989 is to be read as a reference to that Article as modified by this Schedule.**]**

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
SEA FISHERIES (SHELLFISH) ACT 1967 (c.83).			
. F342 . . .	. F342 . . .	. F342 . . .	. F342 . . .
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.
F342 . . .	F342 . . .	F342 . . .	F342 . . .
Offences under section 14(2) (contravention of order prohibiting the deposit or taking of shellfish, or importation	Section 14(2).	Level 4.	Level 5.

Status: *This version of this Act contains provisions that are prospective.*
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of shellfish, or non-compliance with conditions of licences).			
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(1) (landing and selling etc. of certain lobsters).	Section 17(4).	Level 3.	Level 5.

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	Schedule 4, column 6.	£500	£2,500

Status: *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 09 June 2020. 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) View outstanding changes*

to Class C drugs (supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another).			
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 (having possession of a controlled drug).	Schedule 4, column 6.	£200	£1,000
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)	Schedule 4, column 6.	£500	£2,500

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committed in relation to Class C drugs (contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs).			

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	Schedule 6, column 4.	3 years.	5 years.

Status: *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 09 June 2020. 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) View outstanding changes*

in firearms without being registered as a firearms dealer).			
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 etc. firearm for person without a certificate).	Schedule 6, column 4.	3 years.	5 years.
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.
F343	**F343**	**F343**	**F343**
. . .	. . .	. . .	. . .
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)	Schedule 6, column 4.	3 years.	5 years.

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(contravention of provisions denying firearms to ex-prisoners and the like).			
Offences under section 21(5) (supplying firearms to person denied them under section 21).	Schedule 6, column 4.	3 years.	5 years.
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.

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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) (possessing or distributing prohibited weapons or ammunition).	Schedule 2, column 4.	5 years.	10 years.
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.

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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)

Poaching: increase in penalties

1 (1) The [M184]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 [M185]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

M184 1831 c. 32.
M185 1832 c. 68.

Sexual offences: procurement of women

2 In sections 2(1) and 3(1) of the [M186]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

M186 1956 c. 69.

Electronic transmission of obscene material

3 In section 1(3) of the [M187]Obscene Publications Act 1959 (definition of publication for purposes of that Act), in paragraph (b), after the words "projects it" there shall

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be inserted the words " , or, where the matter is data stored electronically, transmits that data. ".

Marginal Citations
M187 1959 c. 66.

Poaching: forfeiture of vehicles

4 After section 4 of the [M188]Game Laws (Amendment) Act 1960 there shall be inserted the following section—

"**4A. Forfeiture of vehicles.**

"**4A** "**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.

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(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.

(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
M188 1960 c. 36.

Magistrates' courts' jurisdiction in cases involving children and young persons

5 In section 18 of the [M189]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
M189 1963 c. 37.

Service of documents by first class post

6 [F344](1) . . . . . .

[F345](2) . . . . . .

(3) In section 1 of the [M190]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—

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"(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

(c) by sending it by registered post, recorded delivery service or first class post addressed to him at his last known address.".

Textual Amendments

F344 Sch. 9 para. 6(1) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), **ss. 80(6)(c)**, 115(7); S.I. 2015/994, art. 6(m)

F345 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

M190 1988 c. 53.

Transfers of proceedings

F346 7 . . . . . .

Textual Amendments

F346 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 M191 Firearms 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

M191 1968 c. 27.

Notice of proceedings

9 In section 34(2) of the M192 Children 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 ".

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Marginal Citations

M192 1969 c. 54.

Treatment of mental condition of offenders placed on probation

F347 10 . . . . . .

Textual Amendments

F347 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 **[**F348(1) In section 5 of the M193Rehabilitation 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.**]**

Textual Amendments

F348 Sch. 9 para. 11 repealed (E.W.) (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 25 Pt. 2** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

Marginal Citations

M193 1974 c. 53.

Transfers of proceedings

F349 12 . . . . . .

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Textual Amendments

F349 Sch. 9 para. 12 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

Anonymity of victims of certain offences

13 In section 4 of the [M194]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

M194 1976 c. 82.

Execution of warrants for non-payment

14 (1) In section 38A(6) of the [M195]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

M195 1977 c. 45.

Committals for sentence

[F350]15 . . . . . .

Textual Amendments

F350 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

[F351]16 . . . . . .

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Textual Amendments

F351 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 [M196]In section 76 of the **[**[F75]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

[F352](c) . . . . . .

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

F75 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)

F352 Sch. 9 para. 17(c) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

Marginal Citations

M196 1981 c. 54.

Transfers of proceedings

18 [M197]In section 77 of the **[**[F75]Senior Courts Act 1981 (date of trial) (as amended by paragraph 11 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 (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

[F353](d) . . . . . .

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: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F75 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)

F353 Sch. 9 para. 18(d) repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

Marginal Citations

M197 1987 c. 38.

Transfers of proceedings

19 In section 81 of the **[**[F75]Senior 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.".

Electronic transmission of obscene material (Scotland)

20 In section 51(8) of the [M198]Civic 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

M198 1982 c. 45.

Fines for breach of attendance centre orders or rules

[F354]21 . . . . . .

Textual Amendments

F354 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 [M199]Video 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

M199 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 [M200]Police and Criminal Evidence Act 1984 prescribes a standard period of one month), namely—

(a) section 4(2) of the [M201]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

M200 1984 c. 60.

M201 1978 c. 37.

Transfers of proceedings

24 In section 62(10) of the [M202]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

M202 1984 c. 39.

Status: *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 09 June 2020. 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) View outstanding changes*

Transfers of proceedings

F355 25 . . . . . .

Textual Amendments

F355 Sch. 9 para. 25 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

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

F356 27 . . . . . .

Textual Amendments

F356 Sch. 9 para. 27 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

Confiscation orders in drug trafficking cases: variation of sentences

F357 28 . . . . . .

Textual Amendments

F357 Sch. 9 para. 28 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

Transfer of fraud cases

F358 29 . . . . . .

Textual Amendments

F358 Sch. 9 para. 29 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

Status: *This version of this Act contains provisions that are prospective.*
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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 [F359] . . . . . .

Textual Amendments

F359 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 [M203]Criminal Justice Act 1991), for the words "subsection (3) above" there shall be substituted the words " subsection (3A) above ".

Marginal Citations

M203 1991 c. 53.

Competence of children

[F360]33 . . . . . .

Textual Amendments

F360 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)**

Reviews of sentencing

34 In section 35 of the [M204]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

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(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
M204 1988 c. 33.

Assaulting prisoner custody officer triable with indictable offence

35 In section 40(3) of the [M205]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
M205 1988 c. 33.

Confiscation orders: variation of sentence

36 In section 72A of the [M206]Criminal Justice Act 1988 (inserted by section 28 of the [M207]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 **[**[F75]Senior Courts Act 1981**]** (time allowed for varying a sentence) but beginning with the end of the specified period.".

Marginal Citations
M206 1988 c. 33.
M207 1993 c. 36.

Extradition from the United Kingdom

37 (1) The [M208]Extradition Act 1989 shall be amended as follows.

(2) In section 2(4) (law of, and conduct in, parts or dependencies of foreign States)—

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(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—

"(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

M208 1989 c. 33.

Status: *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 09 June 2020. 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) View outstanding changes*

PROSPECTIVE

Remands and committals of young persons to secure accommodation

[F361]38 . . . . . .

Textual Amendments

F361 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 [M209]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

M209 S.I. 1989/1341 (N.I. 12).

Pre-sentence reports

[F362]40 . . . . . .

Textual Amendments

F362 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

[F363]41 . . . . . .

Textual Amendments

F363 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

[F364]42 . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F364 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—

" **False statements as to financial circumstances.**

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 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

F365 44 . . . . . .

Textual Amendments

F365 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

F366 45 . . . . . .

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Textual Amendments

F366 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 [M210]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.".

Marginal Citations

M210 1991 c. 53.

Committals for sentence

[F367]47 . . . . . .

Textual Amendments

F367 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

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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 [M211]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

M211 1975 c. 21.

Transfers of proceedings

[F368]49 . . . . . .

Textual Amendments

F368 Sch. 9 para. 49 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

Community sentences: binding over of parent or guardian

[F369]50 . . . . . .

Textual Amendments

F369 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

[F370]51 . . . . . .

Textual Amendments

F370 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 [M212]Sexual Offences (Amendment) Act 1992 shall be amended as follows.

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(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

M212 1992 c. 34.

Application of 1993 Act powers to pre-commencement offences

53 Section 78(6) of the [M213]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

M213 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)

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Bail: exclusion in homicide and rape cases

1 In section 2 of the [M214]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
M214 1679 c. 2.

Evidence of accused in criminal proceedings

2 In section 1 of the [M215]Criminal Evidence Act 1898 (competency of accused to give evidence in criminal proceedings), proviso (b) shall be omitted.

Marginal Citations
M215 1898 c. 36.

Evidence of accused in criminal proceedings

3 In section 1 of the [M216]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—

"(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
M216 1923 c. 9 (N.I.).

Responsibility for fine for breach of requirements of secure training order

[F371]4 . . . . . .

Textual Amendments
F371 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

[F372]5 . . . . . .

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Textual Amendments

F372 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 [M217]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

M217 1948 c. 58.

Modernisation of "servant" in Prison Act

7 In section 3(1) of the [M218]Prison Act 1952 (officers and servants at prisons), for the word "servants" there shall be substituted the words " employ such other persons ".

Marginal Citations

M218 1952 c. 52.

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 [M219]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 ".

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Marginal Citations
M219 1952 c. 52.

Bail: exclusion in homicide and rape cases

10 In section 4(2) of the [M220]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
M220 1960 c. 65.

Young offenders: application of prison rules

11 In section 23(4) of the [M221]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
M221 1961 c. 39.

Young offenders: transfer, supervision and recall within British Islands

12 (1) Part III of the [M222]Criminal Justice Act 1961 (transfer, supervision and recall within British Islands) shall have effect with the following amendments.

(2) In section 29—

(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.".

Status: *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 09 June 2020. 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) View outstanding changes*

(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

M222 1961 c. 39.

Payment of damages by police authority

F373 13 . . . . . .

Textual Amendments

F373 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

F374 14 . . . . . .

Textual Amendments

F374 Sch. 10 para. 14 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 9 Pt. I**

Bail: exclusion in homicide and rape cases

15 F375 . . . . . .

Textual Amendments

F375 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 M223 Criminal 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;".

Status: *This version of this Act contains provisions that are prospective.*
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Marginal Citations
M223 1967 c. 80.

Payment of damages by Scottish police authority

[F376]17 . . . . . .

Textual Amendments
F376 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 [M224]Criminal 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
M224 1968 c. 19.

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, ".

Status: *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 09 June 2020. 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) View outstanding changes*

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 [M225]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.".

(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

M225 1968 c. 27.

Cross-border enforcement: extension of protection

25 In section 7 of the [M226]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.".

Status: *This version of this Act contains provisions that are prospective.*
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Marginal Citations

M226 1968 c. 28 (N.I.).

Sexual offences: male rape

26 [F377] . . . . . .

Textual Amendments

F377 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

[F378]27 . . . . . .

Textual Amendments

F378 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 [M227]Juries Act 1974 (offences in connection with jury service), at the end of paragraph (d) there shall be inserted

(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,".

Marginal Citations

M227 1974 c. 23.

Custody officers: ineligibility for jury service

29 [F379] . . . . . .

Textual Amendments

F379 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 **[**[F380]In section 5(6) of the [M228]Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences), after paragraph (c), there shall be inserted the following paragraph, preceded by the word "or"—

Status: *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 09 June 2020. 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) View outstanding changes*

"(d) a secure training order under section 1 of the Criminal Justice and Public Order Act 1994;".**]**

Textual Amendments

F380 Sch. 10 para. 30 repealed (E.W.) (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 25 Pt. 2** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

Marginal Citations

M228 1974 c. 53.

Prisoner custody officers: ineligibility for jury service

[F381]31 . . . . . .

Textual Amendments

F381 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 [M229]Bail 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

M229 1976 c. 63.

Police bail: variation by magistrates

33 In section 4(2) of the [M230]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

M230 1976 c.63.

Bail: no right for persons offending while on bail

34 **[**[F382]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. ".**]**

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F382 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 [M231]Sexual Offences (Amendment) Act 1976 shall be amended as follows.

(2) [F383] . . . . . .

(3) [F384] . . . . . .

(4) [F385] . . . . . .

Textual Amendments

F383 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**

F384 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)**

F385 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

M231 1976 c. 82.

Sexual offences: male rape

36 (1) Section 4 of the [M232]Sexual Offences (Amendment) Act 1976 (anonymity of complainants in rape etc. cases) shall be amended as follows.

(2) In subsection (1)—

(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 ".

Status: *This version of this Act contains provisions that are prospective.*
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(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
M232 1976 c. 82.

Indecent photographs etc.

37 (1) The [M233]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 ".

[F386](4) . . . . . .

Textual Amendments
F386 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
M233 1978 c. 37.

Indecent photographs etc. (Northern Ireland)

38 (1) The [M234]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 ".

[F387](3) . . . . . .

[F387](4) . . . . . .

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(5) In Article 7(1), after the word "Order" there shall be inserted the words " relating to indecent photographs of children ".

Textual Amendments

F387 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

M234 S.I. 1978/1047 (N.I.17).

Secure training orders: absence of accused

39 In section 11(3) of the [M235]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

M235 1980 c. 43.

Procedure for young offenders in cases of grave crimes

[F388]40 . . . . . .

Textual Amendments

F388 Sch. 10 para. 40 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

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

[F389]42 . . . . . .

Textual Amendments

F389 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)**

Status: *This version of this Act contains provisions that are prospective.*
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Police bail

43 In section 43(1) of the Magistrates' Courts Act 1980 (bail under the [M236]Police and Criminal Evidence Act 1984), after the words "bail under" there shall be inserted the words " Part IV of ".

Marginal Citations
M236 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 [M237]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
M237 1980 c. 55.

Young offenders: detention in the custody of a constable and others

46 In section 6 of the [M238]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 Justice and Public Order Act 1994) acting in pursuance of escort arrangements (within the meaning of Schedule 1 to that Act).".

Marginal Citations
M238 1980 c. 57.

Status: *This version of this Act contains provisions that are prospective.*
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Detention by constables and officers of a prison etc.: maximum period

[F390]47 . . . . . .

Textual Amendments

F390 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, ".

Young offenders: legal representation

[F391]49 . . . . . .

Textual Amendments

F391 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 [M239]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.".

Marginal Citations

M239 1982 c. 48.

Bail: exclusion in homicide and rape cases

51 In section 51(4) of the [M240]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

M240 1983 c. 20.

Status: *This version of this Act contains provisions that are prospective.*
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Video recordings

52 (1) The [M241]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.**

"**15** "**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.".

Marginal Citations

M241 1984 c. 39.

Interim possession order: power of entry

53 In section 17 of the [M242]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);";

[F392](b) . . . . . .

Status: *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 09 June 2020. 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) View outstanding changes*

Textual Amendments

F392 Sch. 10 para. 53(b) omitted (1.9.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 144(9)**, 151(1); S.I. 2012/1956, art. 2

Marginal Citations

M242 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

(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 [M243]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

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(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

M243 1984 c.60.

Non-intimate samples: speculative searches

58 In section 63 of the [M244]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

M244 1984 c.60.

Sexual offences: male rape and buggery

59 [F393] . . . . . .

Textual Amendments

F393 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 [M245]Public Order Act 1986 (delegation of functions), for “14” there shall be substituted “ 14A ”.

Marginal Citations

M245 1986 c. 64.

Status: *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 09 June 2020. 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) View outstanding changes*

Inferences from accused's silence

61 (1) The [M246]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 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—

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"(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
M246 S.I. 1988/1987 (N.I.20).

Samples: application to terrorist suspects

[F394]62 (1) . . . . . .

(2) . . . . . .

(3) . . . . . .

(4) In consequence of the foregoing amendments—

(a) in section 62 of the [M247]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) . . . . . .

Status: *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 09 June 2020. 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) View outstanding changes*

Textual Amendments

F394 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

M247 1984 c. 60.

Prevention of terrorism: consents for prosecutions etc.

F395 63 . . . . . .

Textual Amendments

F395 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

F396 64 . . . . . .

Textual Amendments

F396 Sch. 10 para. 64 repealed (S.) (31.8.2015) by The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 (S.S.I. 2015/39), art. 1, **sch. para. 3(5)**

Non-appearance of accused: plea of guilty

F397 65 . . . . . .

Textual Amendments

F397 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

F398 66 . . . . . .

Textual Amendments

F398 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

F399 67 . . . . . .

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Textual Amendments

F399 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 **F400** . . . . . .

Textual Amendments

F400 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—

"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.

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(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.

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

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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.

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.

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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

F401 71 . . . . . .

Textual Amendments

F401 Sch. 10 para. 71 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 34) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts. 34)

Probation officers for offenders subject to secure training orders

F402 72 . . . . . .

Textual Amendments

F402 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

F403 73 . . . . . .

Textual Amendments

F403 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)

Status: *This version of this Act contains provisions that are prospective.*
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Commencement Information

I18 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.	F404 . . .. F404 . . ..
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). 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". F405[In 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.	F404 . . ..

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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.	F404 . . .. F404 . . .. In section 67(5), the word "and" at the end of paragraph (a).
1968 c. 19.	Criminal Appeal Act 1968.	F404 . . .
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). **[**F405In 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.	F404 . . . F404 . . . F404 . . . F404 . . . F404 . . . F404 . . . F404 . . .. F404 . . ..
1973 c. 62.	Powers of Criminal Courts Act 1973.	F404 . . ..
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)".

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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.	F404 . . ..
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”. F404 . . . . F404 . . . . F404 . . . F404 . . . F404 . . . F404 . . .. F404 . . .. F404 . . ..
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.	F404 . . ..
1982 c. 48.	Criminal Justice Act 1982.	F404 . . .. 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.

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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.	F404 . . ..
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.	F404 . . . F404 . . . F404 . . .
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".

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1991 c. 13.	War Crimes Act 1991.	**F404** . . .
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).

Textual Amendments

F404 Entries in Sch. 11 repealed (*retrospective* to 3.11.1994) by 1996 c. 25, s. 44, 80, **Sch. 5 para. 1** (with 78(1))

F405 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:
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Changes to legislation:
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View outstanding changes

Changes and effects yet to be applied to :

- s. 25(2) words substituted by S.I. 2019/780 reg. 23(2)
- s. 25(3) omitted by S.I. 2019/780 reg. 23(3)
- s. 25(3B) omitted by S.I. 2019/780 reg. 23(4)
- s. 25(5) words omitted by S.I. 2019/780 reg. 23(5)
- s. 25(5A) omitted by S.I. 2019/780 reg. 23(6)
- s. 26 repealed by 2003 c. 44 Sch. 37 Pt. 2
- s. 51(9) words substituted by 2003 c. 44 Sch. 36 para. 11(2)
- s. 53 repealed by S.I. 2003/435 (N.I.) Sch. 5
- s. 60(8) words substituted by 2003 c. 44 Sch. 26 para. 45(2)
- s. 60AA(7) words substituted by 2003 c. 44 Sch. 26 para. 45(3)
- s. 61(4) words substituted by 2003 c. 44 Sch. 26 para. 45(4)
- s. 62B(3) words substituted by 2003 c. 44 Sch. 26 para. 45(5)
- s. 63(6) words substituted by 2003 c. 44 Sch. 26 para. 45(6)
- s. 63(7B) words substituted by 2003 c. 44 Sch. 26 para. 45(6)
- s. 68(3) words substituted by 2003 c. 44 Sch. 26 para. 45(7)
- s. 69(3) words substituted by 2003 c. 44 Sch. 26 para. 45(8)
- s. 127(4)(b) inserted by 2008 c. 4 s. 138(5)
- s. 127(6) words inserted by 2012 c. 10 s. 129(6)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 51(10)(a)(ia) inserted by 2003 c. 44 Sch. 36 para. 11(3)