Crime and Disorder Act 1998

1998 CHAPTER 37

An Act to make provision for preventing crime and disorder; to create certain racially-aggravated offences; to abolish the rebuttable presumption that a child is doli incapax and to make provision as to the effect of a child's failure to give evidence at his trial; to abolish the death penalty for treason and piracy; to make changes to the criminal justice system; to make further provision for dealing with offenders; to make further provision with respect to remands and committals for trial and the release and recall of prisoners; to amend Chapter I of Part II of the Crime (Sentences) Act 1997 and to repeal Chapter I of Part III of the Crime and Punishment (Scotland) Act 1997; to make amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of certain enactments; and for connected purposes. [31st July 1998]

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:—

Modifications etc. (not altering text)

C1 Act modified (22.7.2008) by Transport for London Act 2008 (c. i), **ss. 1(1)**, 29

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PART I

PREVENTION OF CRIME AND DISORDER

CHAPTER I

ENGLAND AND WALES

Crime and disorder: general

[F1]1 Anti-social behaviour orders.

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

Modifications etc. (not altering text)

C2 S. 1 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 73(1), 120(1), **Sch. 5 para. 4(1)(a)(2)(j)**; S.I. 2004/1572, **art. 3(jjj)**

[F1][F2]1A] Power of Secretary of State to add to relevant authorities

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F2 S. 1A inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 62(1)**; S.I. 2002/2750, **art. 2(a)(vii)**

[F1][F3]1AAIndividual support orders

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F3 Ss. 1AA, 1AB inserted (1.5.2004) by Criminal Justice Act 2003 (c. 44), **ss. 322**, 336(3); S.I. 2004/829 {art. 3(2)(b)}

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[F1]1AB] Individual support orders: explanation, breach, amendment etc

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F3 Ss. 1AA, 1AB inserted (1.5.2004) by Criminal Justice Act 2003 (c. 44), **ss. 322**, 336(3); S.I. 2004/829 {art. 3(2)(b)}

[F1][F4]1B] Orders in county court proceedings

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F4 S. 1B inserted (1.4.2003) by Police Reform Act 2002 (c. 30), **ss. 63**, 108(2); S.I. 2003/808, **art. 2(f)**

[F1][F5]1C] Orders on conviction in criminal proceedings

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F5 S. 1C inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 64**; S.I. 2002/2750, **art. 2(a)(vii)**

[F1][F6]1CA Variation and discharge of orders under section 1C

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F6 S. 1CA inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 140(4)**, 178(8); S.I. 2005/1521, **art. 3(1)(s)**

[F1][F7]1D] Interim orders

. . . . . .

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Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F7 S. 1D inserted (2.12.2002 in relation to s. 1D(1)(a)(2)-(5), otherwise 1.4.2003) by Police Reform Act 2002 (c. 30), **ss. 65(1)**, 108(2); S.I. 2002/2750, **art. 2(a)(vii)**; S.I. 2003/808, **art. 2(f)**

[F1][F8]1E] Consultation requirements

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F8 S. 1E inserted (2.12.2002 in relation to s. 1E(1)(a)(2)-(4), otherwise 1.4.2003) by Police Reform Act 2002 (c. 30), **s. 66**; S.I. 2002/2750, **art. 2(a)(vii)**; S.I. 2003/808, **art. 2(f)**

[F1][F9]1F] Contracting out of local authority functions

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F9 S. 1F inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 142(1)**, 178(8); S.I. 2005/1521, **art. 3(1)(s)**

[F1][F10]1G Intervention orders

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F10 Ss. 1G, 1H inserted (1.10.2006) by Drugs Act 2005 (c. 17), **ss. 20(1)**, 24(3), S.I. 2006/2136, {art. 2}

[F1]1H] Intervention orders: explanation, breach, amendment etc.

. . . . . .

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Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F10 Ss. 1G, 1H inserted (1.10.2006) by Drugs Act 2005 (c. 17), **ss. 20(1)**, 24(3), S.I. 2006/2136, {art. 2}

[F1][F11]1I] Special measures for witnesses

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F11 S. 1I inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 143**, 178(8); S.I. 2005/1521, **art. 3(1)(s)**

[F1][F12]1J Review of orders under sections 1, 1B and 1C

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F12 Ss. 1J, 1K inserted (1.2.2009) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 123(1)**, 153(7) (with Sch. 27 para. 33); S.I. 2009/140, **art. 2(b)**

[F1]1K] Responsibility for, and participation in, reviews under section 1J

. . . . . .

Textual Amendments

F1 Ss. 1-1K repealed (20.10.2014 for specified purposes) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iii)

F12 Ss. 1J, 1K inserted (1.2.2009) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 123(1)**, 153(7) (with Sch. 27 para. 33); S.I. 2009/140, **art. 2(b)**

2 Sex offender orders.

[F13] . . . . . .

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Textual Amendments

F13 S. 2 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141(1), Sch. 6 para. 38(2), **Sch. 7**; S.I. 2004/874, **art. 2**

[[F14]2A Interim orders: sex offenders

[F15] . . . . . .]

Textual Amendments

F14 S. 2A inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 68(1)**; S.I. 2002/2750, **art. 2(a)(viii)**

F15 S. 2A repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141(1), Sch. 6 para. 38(2), **Sch. 7**; S.I. 2004/874, **art. 2**

[[F16]2B Sex offender orders made in Scotland or Northern Ireland

[F17] . . . . . .]

Textual Amendments

F16 S. 2B inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 69**; S.I. 2002/2750, **art. 2(a)(viii)**

F17 S. 2B repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141(1), Sch. 6 para. 38(2), **Sch. 7**; S.I. 2004/874, **art. 2**

3 Sex offender orders: supplemental.

[F18] . . . . . .

Textual Amendments

F18 S. 3 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141(1), Sch. 6 para. 38(2), **Sch. 7**; S.I. 2004/874, **art. 2**

[F19]4 Appeals against orders.

. . . . . .

Textual Amendments

F19 S. 4 repealed (23.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 24(b)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(vi)

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Crime and disorder strategies

5 Authorities responsible for strategies.

(1) Subject to the provisions of this section, the functions conferred by **[**[F20]or under**]** section 6 below shall be exercisable in relation to each local government area by the responsible authorities, that is to say—

(a) the council for the area and, where the area is a district and the council is not a unitary authority, the council for the county which includes the district; **[**[F21]and**]**

[[F22](aa) every provider of probation services operating within the area in pursuance of arrangements under section 3 of the Offender Management Act 2007 which provide for it to be a responsible authority under this section;**]**

(b) every chief officer of police any part of whose police area lies within the area.

[F23]**[**[F24](c) . . . . . .

(d) every **[**[F25]fire and rescue authority**]** any part of whose area so lies;

(e) if the local government area is in England, every **[**[F26]clinical commissioning group**]** the whole or any part of whose area so lies; and

(f) if the local government area is in Wales, every **[**[F27]Local Health Board**]** the whole or any part of whose area so lies.**]**

[[F28](1A) The relevant local policing body in relation to two or more local government areas in England may make a combination agreement with the responsible authorities in relation to those areas (the "combined area").

(1B) A combination agreement is an agreement for the functions conferred by or under section 6 or by section 7 to be carried out in relation to the combined area as if it constituted only one local government area.

(1BA) The responsible authorities in relation to a combined area are all the persons who are the responsible authorities in relation to each local government area that falls within the combined area.

(1BB) Section 5A contains further provision about the making and contents of combination agreements.**]**

[[F29](1C) **[**[F30]A combination agreement**]**—

(a) may require the councils for the local government areas in question to appoint a joint committee of those councils (the "joint crime and disorder committee") and to arrange for crime and disorder scrutiny functions in relation to any (or all) of those councils to be exercisable by that committee;

(b) may make provision applying any of the relevant provisions, with or without modifications, in relation to a joint crime and disorder committee.

(1D) In subsection (1C)—

"crime and disorder scrutiny functions", in relation to a council, means functions that are, or, but for **[**[F31]a combination agreement**]**, would be, exercisable by the crime and disorder committee of the council under section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters);

"the relevant provisions" means—

(a) section 19 of the Police and Justice Act 2006;

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(b) section 20 of that Act and any regulations made under that section;
(c) Schedule 8 to that Act;
(d) section **[**F32 9F, 9FA or**]** 21 of the Local Government Act 2000.**]**

[F33 (1E) The "relevant local policing body", in relation to a combined area, is—
(a) if the area falls (wholly or partly) within the police area of a police and crime commissioner, the commissioner,
(b) if the area falls (wholly or partly) within the metropolitan police district, the Mayor's Office for Policing and Crime, and
(c) if the area falls partly within the City of London, the Secretary of State.

(1F) If there is more than one relevant local policing body in relation to a combined area by virtue of subsection (1E), the references in subsection (1A) above and section 5A(2) to the relevant local policing body in relation to the combined area are references to each of the relevant local policing bodies for that area acting jointly.**]**

(2) In exercising **[**F34 the functions conferred by or under section 6**]**, the responsible authorities shall act in co-operation with the following persons and bodies, namely—
[F35 (b) every local probation board any part of whose area lies within the area;
[F36 (ba) every provider of probation services operating within the area in pursuance of arrangements under section 3 of the Offender Management Act 2007 which provide for it to co-operate under this subsection with the responsible authorities;**]]**
(c) every person or body of a description which is for the time being prescribed by order of the Secretary of State under this subsection **[**F37; and
(d) where they are acting in relation to an area in Wales, every person or body which is of a description which is for the time being prescribed by an order under this subsection of the National Assembly for Wales;**]**

and it shall be the duty of those persons and bodies to co-operate in the exercise by the responsible authorities of **[**F34 the functions conferred by or under section 6**]**.

(3) The responsible authorities shall also invite the participation in their exercise of those functions of at least one person or body of each description which is for the time being prescribed by order of the Secretary of State under this subsection **[**F38 and, in the case of the responsible authorities for an area in Wales, of any person or body of a description for the time being prescribed by an order under this subsection of the National Assembly for Wales.**]**

(4) In this section and sections 6 and 7 below "local government area" means—
(a) in relation to England, each district or London borough, the City of London, the Isle of Wight and the Isles of Scilly;
(b) in relation to Wales, each county or county borough.

[F39 (5) In this section—
[F40 "fire and rescue authority" means—
(a) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
(aa) **[**F41 a fire and rescue authority created by an order under section 4A of that Act;**]**
(b) a metropolitan county fire and civil defence authority; or
(c) **[**F42 the London Fire Commissioner.**]]**F43 . . .

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[F43] . . . . . .]

[[F44](6) The appropriate national authority may by order amend this section by—

(a) adding an entry for any person or body to the list of authorities in subsection (1),

(b) altering or repealing an entry for the time being included in the list, or

(c) adding, altering or repealing provisions for the interpretation of entries in the list.

(7) In this section the "appropriate national authority", in relation to a person or body, means—

(a) the National Assembly for Wales, if all the functions of the person or body are devolved Welsh functions;

(b) the Secretary of State and the Assembly acting jointly, if the functions of the person or body include devolved Welsh functions and other functions; and

(c) the Secretary of State, if none of the functions of the person or body are devolved Welsh functions.

(8) In subsection (7), "devolved Welsh functions" means functions which are dischargeable only in relation to Wales and relate to matters in relation to which the Assembly has functions.]

Textual Amendments

F20 Words in s. 5(1) inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 2(2)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

F21 Word at the end of s. 5(1) repealed (30.4.2004 for E. and otherwise prosp.) by Police Reform Act 2002 (c. 30), ss. 107(2), 108(2), **Sch. 8**; S.I. 2004/913, **art. 3**

F22 S. 5(1)(aa) inserted (1.4.2010) by Policing and Crime Act 2009 (c. 26), **ss. 108(2)**, 116(1); S.I. 2010/507, **art. 5(p)**

F23 S. 5(1)(c) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 11 para. 2(2)**; S.I. 2012/2892, art. 2(f)

F24 S. 5(1)(c)-(f) inserted (1.4.2003 for W., 1.4.2003 for E. in relation to s. 5(1)(c)(d), and 30.4.2004 for E. otherwise) by Police Reform Act 2002 (c. 30), **ss. 97(2)**, 108(2)(4); S.I. 2003/525, **art. 2**; S.I. 2003/808, **art. 2(j)**; S.I. 2004/913, **art. 3(a)**

F25 Words in s. 5(1)(d) substituted (7.9.2004 for E.S. for specified purposes, 1.10.2004 for E.S. otherwise, and 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), ss. 53(1), 61, **Sch. 1 para. 89(2)(a)**; S.I. 2004/2304, **art. 2** (with art. 3); S.I. 2004/2917, **art. 2**

F26 Words in s. 5(1)(e) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 84**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F27 Words in s. 5(1)(f) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(a)**

F28 S. 5(1A)-(1BB) substituted for s. 5(1A)(1B) (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 2(3)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F29 S. 5(1C)(1D) inserted (30.4.2009 for E., otherwise prosp.) by Police and Justice Act 2006 (c. 48), **ss. 21**, 53(1)(a); S.I. 2009/936, **art. 2(c)**

F30 Words in s. 5(1C) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 2(4)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

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F31 Words in s. 5(1D) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 2(5)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F32 Words in s. 5(1D) inserted (4.5.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 7**; S.I. 2012/1008, art. 4(b)

F33 S. 5(1E)(1F) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 2(6)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F34 Words in s. 5(2) substituted (16.1.2012) of Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 2(7)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F35 S. 5(2)(b) substituted for s. 5(2)(a)(b) (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **s. 97(4)(a)**; S.I. 2002/2306, **art. 3(a)**; S.I. 2003/525, **art. 2**

F36 S. 5(2)(ba) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 13(2)**

F37 S. 5(2)(d) and preceding word inserted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **s. 97(4)(b)**; S.I. 2002/2306, **art. 3(a)**; S.I. 2003/525, **art. 2**

F38 Words in s. 5(3) inserted (1.4.2003 for W. and 23.2.2004 for E.) by Police Reform Act 2002 (c. 30), **ss. 97(5)**, 108(2)(4); S.I. 2003/525, **art. 2**; S.I. 2004/119, **art. 2**

F39 S. 5(5) inserted (1.4.2003) by Police Reform Act 2002 (c. 30), **ss. 97(6)**, 108(2)(4); S.I. 2003/525, **art. 2**; S.I. 2003/808, **art. 2(j)**

F40 S. 5(5): definition of "fire authority" substituted (7.9.2004 for E.S. for specified purposes, 1.10.2004 for E.S. otherwise, and 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), ss. 53(1), 61, **Sch. 1 para. 89(2)(b)**; S.I. 2004/2304, **art. 2** (with art. 3); S.I. 2004/2917, **art. 2**

F41 Words in s. 5(5) inserted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 78**

F42 Words in s. 5(5) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 104**; S.I. 2018/227, **reg. 4(c)**

F43 S. 5(5): definition of "police authority" and preceding word omitted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 2(8)(b)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d)) (with Sch. 2 para. 6(a))

F44 S. 5(6)-(8) inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 2(5)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

Modifications etc. (not altering text)

C3 S. 5: functions of local authority not to be the sole responsibility of the executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 4(1), **Sch. 3**

C4 S. 5(1) modified (1.4.2003 for W. and 30.4.2004 for E.) by Police Reform Act 2002 (c. 30), ss. {s. 97(15)}, 108(2)(4); S.I. 2003/525, **art. 2**; S.I. 2004/913, **art. 3(a)**

C5 S. 5 modified (30.4.2009 for E. and 1.10.2009 for W.) by Police and Justice Act 2006 (c. 48), ss. 19(10), 53(1)(a), **Sch. 8 para. 11(2)**; S.I. 2009/936, **art. 2(d)**; S.I. 2009/2540, **art. 2(c)**

Commencement Information

I1 S. 5 wholly in force; S. 5 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

[F45 5A Combination agreements: further provision

(1) A combination agreement for a combined area may be made only if every responsible authority in relation to that area is a party to the agreement.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The relevant local policing body for a combined area may enter into a combination agreement for that area only if it considers that it would be in the interests of one or more of the following to do so—
  (a) reducing crime and disorder;
  (b) reducing re-offending;
  (c) combating the misuse of drugs, alcohol and other substances.

(3) Subsections (4) to (6) apply if a combined area in relation to a combination agreement includes (wholly or party) the area of more than one police area.

(4) The combination agreement must include arrangements for securing effective and efficient co-operation—
  (a) between each of the relevant local policing bodies in relation to the combined area, and
  (b) between the responsible authorities for the area and those relevant local policing bodies.

(5) The Secretary of State must be a party to the agreement (if not already a party by virtue of being a relevant local policing body in relation to the combined area).

(6) The Secretary of State may enter into the agreement only if the Secretary of State—
  (a) considers that it would be in the interests of one or more of the matters mentioned in subsection (2), and
  (b) is satisfied that the arrangements mentioned in subsection (4) are adequate for the purposes of securing effective and efficient co-operation in the carrying out of functions under section 6.

(7) A combination agreement—
  (a) must be in writing, and
  (b) may be varied by a further combination agreement.

(8) A combination agreement may be terminated by agreement in writing between the parties to it; and subsection (2), and (as the case may be) (6)(a), applies to an agreement under this subsection.

(9) In this section "combination agreement", "combined area" and "relevant local policing body" have the same meanings as in section 5.**]**

Textual Amendments

F45 S. 5A inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 3**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

[[F46]6 Formulation and implementation of strategies.

(1) The responsible authorities for a local government area shall, in accordance with section 5 **[**[F47], with subsection (1A),**]** and with regulations made under subsection (2), formulate and implement—
  (a) a strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) a strategy for combatting the misuse of drugs, alcohol and other substances in the area **[**[F48]; and

(c) a strategy for the reduction of re-offending in the area**]**.

[[F49](1A) In exercising functions under subsection (1), apart from devolved Welsh functions (as defined by section 5(8)), each of the responsible authorities for a local government area must have regard to the police and crime objectives set out in the police and crime plan for the police area which comprises or includes that local government area.**]**

(2) The appropriate national authority may by regulations make further provision as to the formulation and implementation of a strategy under this section.

(3) Regulations under subsection (2) may in particular make provision for or in connection with—

(a) the time by which a strategy must be prepared and the period to which it is to relate;

(b) the procedure to be followed by the responsible authorities in preparing and implementing a strategy (including requirements as to the holding of public meetings and other consultation);

(c) the conferring of functions on any one or more of the responsible authorities in relation to the formulation and implementation of a strategy;

[[F50](ca) the conferring of functions on a police and crime commissioner for a police area in England in relation to the formulation and implementation of a strategy for any local government area that lies in that police area;**]**

(d) matters to which regard must be had in formulating and implementing a strategy;

(e) objectives to be addressed in a strategy and performance targets in respect of those objectives;

(f) the sharing of information between responsible authorities;

(g) the publication and dissemination of a strategy;

(h) the preparation of reports on the implementation of a strategy.

(4) The provision which may be made under subsection (2) includes provision for or in connection with the conferring of functions on a committee of, or a particular member or officer of, any of the responsible authorities.

[[F51](4A) Provision under subsection (3)(ca) may include provision—

(a) for a police and crime commissioner to arrange for meetings to be held for the purpose of assisting in the formulation and implementation of any strategy (or strategies) that the commissioner may specify that relate to any part of the police area of the commissioner,

(b) for the commissioner to chair the meetings, and

(c) for such descriptions and numbers of persons to attend the meetings as the commissioner may specify (including, in particular, representatives of the responsible authorities in relation to the strategies to be discussed at the meetings).**]**

(5) The matters referred to in subsection (3)(d) may in particular include guidance given by the appropriate national authority in connection with the formulation or implementation of a strategy.

(6) Provision under subsection (3)(e) may require a strategy to be formulated so as to address (in particular)—

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(a) the reduction of crime or disorder of a particular description; or
(b) the combatting of a particular description of misuse of drugs, alcohol or other substances.

(7) Regulations under this section may make—
(a) different provision for different local government areas;
(b) supplementary or incidental provision.

(8) For the purposes of this section any reference to the implementation of a strategy includes—
(a) keeping it under review for the purposes of monitoring its effectiveness; and
(b) making any changes to it that appear necessary or expedient.

(9) In this section the "appropriate national authority" is—
(a) the Secretary of State, in relation to strategies for areas in England;
(b) the National Assembly for Wales, in relation to strategies for combatting the misuse of drugs, alcohol or other substances in areas in Wales;
(c) the Secretary of State and the Assembly acting jointly, in relation to strategies for combatting crime and disorder **[**[F52]or re-offending**]** in areas in Wales.**]**

Textual Amendments

F46 S. 6 substituted for ss. 6, 6A (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 3**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

F47 Words in s. 6(1) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 11 para. 4(2)**; S.I. 2012/2892, art. 2(f)

F48 S. 6(1)(c) and preceding word inserted (2.3.2010 for specified purposes, otherwise 1.4.2010) by Policing and Crime Act 2009 (c. 26), **ss. 108(4)**, 116(1); S.I. 2010/507, **arts. 3**, 5(p)

F49 S. 6(1A) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 11 para. 4(3)**; S.I. 2012/2892, art. 2(f)

F50 S. 6(3)(ca) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 11 para. 4(4)**; S.I. 2012/2892, art. 2(f)

F51 S. 6(4A) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 11 para. 4(5)**; S.I. 2012/2892, art. 2(f)

F52 Words in s. 6(9)(c) inserted (2.3.2010 for specified purposes, otherwise 1.4.2010) by Policing and Crime Act 2009 (c. 26), **ss. 108(5)**, 116(1); S.I. 2010/507, **arts. 3**, 5(p)

7 Supplemental.

(1) The responsible authorities for a local government area shall, whenever so required by the **[**[F54]relevant local policing body for that area**]**, submit to **[**[F55]that body**]** a report on such matters connected with the exercise of their functions under section 6 above **[**[F56], apart from devolved Welsh functions (as defined by section 5(8)),**]** as may be specified in the requirement.

[[F57](1A) The relevant local policing body in relation to a local government area may require a report under subsection (1) only if—
(a) the body is not satisfied that the responsible authorities for the area are carrying out their functions under section 6 in an effective and efficient manner, and

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(b) the body considers it reasonable and proportionate in all the circumstances to require a report.**]**

(2) A requirement under subsection (1) above may specify the form in which a report is to be given.

(3) The **[**[F58]relevant local policing body**]** may arrange, or require the responsible authorities to arrange, for a report under subsection (1) above to be published in such manner as appears to **[**[F59]the body**]** to be appropriate.

[[F60](4) Relevant local policing body", in relation to a local government area, means—

(a) if the area (or any part of it) falls within the police area of a police and crime commissioner, the commissioner,

(b) if the area (or any part of it) falls within the metropolitan police district, the Mayor's Office for Policing and Crime, and

(c) if the area (or any part of it) is the City of London, the Secretary of State.

(5) If there is more than one relevant local policing body in relation to a combined area that is to be treated as one local government area under a combination agreement (see section 5(1A))—

(a) a report submitted under subsection (1) is to be submitted to each of the relevant local policing bodies for the combined area, and

(b) references in this section to any requirement or arrangement made by the relevant local policing body are references to a requirement or arrangement made by each of the relevant local policing bodies for the combined area acting jointly.**]**

Textual Amendments

F54 Words in s. 7(1) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 5(2)(a)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F55 Words in s. 7(1) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 5(2)(b)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F56 Words in s. 7(1) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 5(2)(c)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F57 S. 7(1A) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 5(3)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F58 Words in s. 7(3) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 5(4)(a)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F59 Words in s. 7(3) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 5(4)(b)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

F60 S. 7(4)(5) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 88, 157(1), **Sch. 11 para. 5(5)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (iii) (as amended by S.I. 2012/75, art. 2(2)(d))

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Commencement Information

I2 S. 7 wholly in force; S. 7 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Youth crime and disorder

8 Parenting orders.

(1) This section applies where, in any court proceedings—

(a) a child safety order is made in respect of a child **[**[F61]or the court determines on an application under section 12(6) below that a child has failed to comply with any requirement included in such an order**]**;

[[F62](aa) a parental compensation order is made in relation to a child's behaviour;**]**

(b) **[**[F63] an injunction is granted under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014, an order is made under section 22 of that Act or a **][**[F64]sexual harm prevention order**]** is made in respect of a child or young person;

(c) a child or young person is convicted of an offence; or

(d) a person is convicted of an offence under section 443 (failure to comply with school attendance order) or section 444 (failure to secure regular attendance at school of registered pupil) of the [M1]Education Act 1996.

(2) Subject to subsection (3) and section 9(1) below [F65]. . . , if in the proceedings the court is satisfied that the relevant condition is fulfilled, it may make a parenting order in respect of a person who is a parent or guardian of the child or young person or, as the case may be, the person convicted of the offence under section 443 or 444 (“the parent”).

(3) A court shall not make a parenting order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area in which it appears to the court that the parent resides or will reside and the notice has not been withdrawn.

[[F66](4) A parenting order is an order which requires the parent—

(a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and

(b) subject to subsection (5) below, to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.

(5) A parenting order may, but need not, include such a requirement as is mentioned in subsection (4)(b) above in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.**]**

(6) The relevant condition is that the parenting order would be desirable in the interests of preventing—

(a) in a case falling within paragraph (a) **[**[F67], (aa)**]** or (b) of subsection (1) above, any repetition of the kind of behaviour which led to **[**[F68] the order being made or the injunction granted **]**

(b) in a case falling within paragraph (c) of that subsection, the commission of any further offence by the child or young person;

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(c) in a case falling within paragraph (d) of that subsection, the commission of any further offence under section 443 or 444 of the [M2]Education Act 1996.

(7) The requirements that may be specified under subsection (4)(a) above are those which the court considers desirable in the interests of preventing any such repetition or, as the case may be, the commission of any such further offence.

[[F69](7A) A counselling or guidance programme which a parent is required to attend by virtue of subsection (4)(b) above may be or include a residential course but only if the court is satisfied—

(a) that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing any such repetition or, as the case may be, the commission of any such further offence, and

(b) that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.**]**

(8) In this section and section 9 below "responsible officer", in relation to a parenting order, means one of the following who is specified in the order, namely—

(a) **[**[F70]an officer of a local probation board**]**[[F71]or an officer of a provider of probation services**]**;

(b) a social worker of a local authority [F72]. . . ; and

[[F73](bb) a person nominated by **[**[F74]a person appointed as director of children's services under section 18 of the Children Act 2004 or by**]** a person appointed as chief education officer under section 532 of the [M3]Education Act 1996**]**

(c) a member of a youth offending team.

[[F75](9) In this section "sexual harm prevention order" means an order under section 103A of the Sexual Offences Act 2003 (sexual harm prevention orders).**]**

Textual Amendments

F61 Words in s. 8(1)(a) inserted (1.3.2005) by Children Act 2004 (c. 31), **ss. 60(2)**, 67(7)(h); S.I. 2005/394, **art. 2(1)(j)**

F62 S. 8(1)(aa) inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 3(2)**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

F63 Words in s. 8(1)(b) substituted (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 25(2)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iv) (with art. 4) (as amended (20.10.2014) by S.I. 2014/2754, arts. 1, 4)

F64 Words in s. 8(1)(b) substituted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 55(2)(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

F65 Words in s. 8(2) omitted (27.2.2004) by virtue of Criminal Justice Act 2003 (c. 44), ss. 324, 336(3), Sch. 34 para. 1; S.I. 2004/81, **art. 5(2)(d)** (and those same words repealed (15.12.2004) by Pt. 12 of Sch. 37 to that Act; S.I. 2004/3033, art. 3(2)(e)(ii)(cc))

F66 S. 8(4)(5) substituted (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 18(2)**, 93(1); S.I. 2003/3300, **art. 3(a)(i)**

F67 Words in s. 8(6)(a) inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 3(3)(a)**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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F68 Words in s. 8(6)(a) substituted (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 25(4)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iv) (with art. 4) (as amended (20.10.2014) by S.I. 2014/2754, arts. 1, 4)

F69 S. 8(7A) inserted (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 18(3)**, 93(1); S.I. 2003/3300, **art. 3(a)(i)**

F70 Words in s. 8(8)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F71 Words in s. 8(8)(a) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 13(3)**

F72 Words in s. 8(8)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67(8), **Sch. 5 Pt. 4**, Note; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**

F73 S. 8(8)(bb) inserted (1.4.2001) by 2000 c. 43, **s. 73**; S.I. 2001/919, **art. 2(d)**

F74 Words in s. 8(8)(bb) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(2)**; S.I. 2007/1792, **art. 2**

F75 S. 8(9) substituted (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 55(3)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(i)

Modifications etc. (not altering text)

C6 S. 8 restricted (26.6.2000) by 1999 c. 23, **ss. 4(5)(6)**, (with Sch. 7 paras. 3(3), 5(2)); S.I. 2000/1587, **art. 2**; which s. 4 of that 1999 Act was repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

C7 S. 8(3)(8) applied (27.2.2004) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), **Sch. 1 para. 9D(7)** (as inserted by Crime and Disorder Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**)

Commencement Information

I3 S. 8 wholly in force; S. 8 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M1 1996 c.56.

M2 1996 c.56.

M3 1996 c. 56.

9 Parenting orders: supplemental.

(1) Where a person under the age of 16 is convicted of an offence, the court by or before which he is so convicted—

(a) if it is satisfied that the relevant condition is fulfilled, shall make a parenting order; and

(b) if it is not so satisfied, shall state in open court that it is not and why it is not.

[[F76](1A) The requirements of subsection (1) do not apply where the court makes a referral order in respect of the offence.**]**

[[F77](1B) If **[**[F78] an injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014 is granted or an order is made under section 22 of that Act **]** is made in respect of a person under the age of 16 the court which **[**[F79] grants the injunction or **]** makes the order—

(a) must make a parenting order if it is satisfied that the relevant condition is fulfilled;

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(b) if it is not so satisfied, must state in open court that it is not and why it is not.**]**

(2) Before making a parenting order—

(a) in a case falling within paragraph (a) of subsection (1) of section 8 above;

(b) in a case falling within paragraph (b) or (c) of that subsection, where the person concerned is under the age of 16; or

(c) in a case falling within paragraph (d) of that subsection, where the person to whom the offence related is under that age,

a court shall obtain and consider information about the person's family circumstances and the likely effect of the order on those circumstances.

[[F80](2A) In a case where a court proposes to make both a referral order in respect of a child or young person convicted of an offence and a parenting order, before making the parenting order the court shall obtain and consider a report by an appropriate officer—

(a) indicating the requirements proposed by that officer to be included in the parenting order;

(b) indicating the reasons why he considers those requirements would be desirable in the interests of preventing the commission of any further offence by the child or young person; and

(c) if the child or young person is aged under 16, containing the information required by subsection (2) above.

(2B) In subsection (2A) above "an appropriate officer" means—

(a) an officer of a local probation board **[**[F81]or an officer of a provider of probation services**]**;

(b) a social worker of a local authority [F82]. . . ; or

(c) a member of a youth offending team.**]**

(3) Before making a parenting order, a court shall explain to the parent in ordinary language—

(a) the effect of the order and of the requirements proposed to be included in it;

(b) the consequences which may follow (under subsection (7) below) if he fails to comply with any of those requirements; and

(c) that the court has power (under subsection (5) below) to review the order on the application either of the parent or of the responsible officer.

(4) Requirements specified in, and directions given under, a parenting order shall, as far as practicable, be such as to avoid—

(a) any conflict with the parent's religious beliefs; and

(b) any interference with the times, if any, at which he normally works or attends an educational establishment.

(5) If while a parenting order is in force it appears to the court which made it, on the application of the responsible officer or the parent, that it is appropriate to make an order under this subsection, the court may make an order discharging the parenting order or varying it—

(a) by cancelling any provision included in it; or

(b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) Where an application under subsection (5) above for the discharge of a parenting order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.

(7) If while a parenting order is in force the parent without reasonable excuse fails to comply with any requirement included in the order, or specified in directions given by the responsible officer, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[[F83](7A) In this section "referral order" means an order under section 16(2) or (3) of the Powers of Criminal Courts (Sentencing) Act 2000 (referral of offender to youth offender panel).**]**

Textual Amendments

F76 S. 9(1A) substituted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 2(2)**; S.I. 2004/81, **art. 5(2)(d)**

F77 S. 9(1B) inserted (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 85(8)**, 93(1) (with s. 84); S.I. 2003/3300, **art. 3(c)**

F78 Words in s. 9(1B) substituted (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 26(3)(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iv) (with art. 4) (as amended (20.10.2014) by S.I. 2014/2754, arts. 1, 4)

F79 Words in s. 9(1B) inserted (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 26(3)(b)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(iv) (with art. 4) (as amended (20.10.2014) by S.I. 2014/2754, arts. 1, 4)

F80 S. 9(2A)(2B) inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 2(3)**; S.I. 2004/81, **art. 5(2)(d)**

F81 Words in s. 9(2B)(a) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 13(4)**

F82 Words in s. 9(2B)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67(8), **Sch. 5 Pt. 4**, Note; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**

F83 S. 9(7A) inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 2(4)**; S.I. 2004/81, **art. 5(2)(d)**

Modifications etc. (not altering text)

C8 S. 9(3)-(7) applied (27.2.2004 for E. and 11.5.2006 for W.) by Anti-social Behaviour Act 2003 (c. 38), **ss. 21(3)**, 93(1); S.I. 2003/3300, **art. 4(c)**; S.I. 2006/1278, **art. 2**

C9 S. 9(3)-(7) applied (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 27(3)**, 93(1); S.I. 2003/3300, **art. 3(a)(iii)**

C10 S. 9(3)-(7) applied (27.2.2004) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), **Sch. 1 para. 9D(7)** (as inserted by Crime and Disorder Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**)

Commencement Information

I4 S. 9 wholly in force; S. 9 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

10 Appeals against parenting orders.

(1) An appeal shall lie—

(a) to **[**[F84]the county court**]** against the making of a parenting order by virtue of paragraph (a) of subsection (1) of section 8 above; and

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) to the Crown Court against the making of a parenting order by virtue of paragraph (b) of that subsection.

(2) On an appeal under subsection (1) above **[**[F84]the county court**]** or the Crown Court—

(a) may make such orders as may be necessary to give effect to its determination of the appeal; and

(b) may also make such incidental or consequential orders as appear to it to be just.

(3) Any order of **[**[F84]the county court**]** or the Crown Court made on an appeal under subsection (1) above (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of subsections (5) to (7) of section 9 above, be treated as if it were an order of the court from which the appeal was brought and not an order of **[**[F84]the county court**]** or the Crown Court.

(4) A person in respect of whom a parenting order is made by virtue of section 8(1)(c) above shall have the same right of appeal against the making of the order as if—

(a) the offence that led to the making of the order were an offence committed by him; and

(b) the order were a sentence passed on him for the offence.

(5) A person in respect of whom a parenting order is made by virtue of section 8(1)(d) above shall have the same right of appeal against the making of the order as if the order were a sentence passed on him for the offence that led to the making of the order.

(6) The Lord Chancellor may **[**[F85], with the concurrence of the Lord Chief Justice,**]** by order make provision as to the circumstances in which appeals under subsection (1)(a) above may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under paragraph 2 of Schedule 11 (jurisdiction) to the [M4]Children Act 1989 ("the 1989 Act").

(7) Except to the extent provided for in any order made under subsection (6) above, no appeal may be made against any decision of a kind mentioned in that subsection.

[[F86](8) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.**]**

Textual Amendments

F84 Words in s. 10 substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 52**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F85 Words in s. 10(6) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 148(1), 15, **Sch. 4 para. 277(2)**; S.I. 2006/1014 {art. 2(a)}, Sch. 1 para. 11(v)

F86 S. 10(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 148(1), 15, **Sch. 4 para. 277(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(v)

Modifications etc. (not altering text)

C11 S. 10(2)(3) applied (27.2.2004 for E. and 11.5.2006 for W.) by Anti-social Behaviour Act 2003 (c. 38), **ss. 22(2)**, 93(1); S.I. 2003/3300, **art. 4(d)**; S.I. 2006/1278 {art. 2}

C12 S. 10(2)(3) applied (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 28(2)**, 93(1); S.I. 2003/3300, **art. 3(a)(iii)**

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C13 S. 10(2)(3) applied (27.2.2004) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), **Sch. 1 para. 9E(2)** (as inserted by Crime and Disorder Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**)

Commencement Information

I5 S. 10 wholly in force at 1.6.2000; S. 10 not in force at Royal Assent see s. 121; S. 10(1)-(5) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); s. 10(6)(7) in force at 1.6.2000 by S.I. 2000/924, **art. 5**

Marginal Citations

M4 1989 c.41.

11 Child safety orders.

(1) Subject to subsection (2) below, if **[**[F87] the family court **]** , on the application of a local authority, is satisfied that one or more of the conditions specified in subsection (3) below are fulfilled with respect to a child under the age of 10, it may make an order (a "child safety order") which—

(a) places the child, for a period (not exceeding the permitted maximum) specified in the order, under the supervision of the responsible officer; and

(b) requires the child to comply with such requirements as are so specified.

(2) A court shall not make a child safety order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area in which it appears that the child resides or will reside and the notice has not been withdrawn.

(3) The conditions are—

(a) that the child has committed an act which, if he had been aged 10 or over, would have constituted an offence;

(b) that a child safety order is necessary for the purpose of preventing the commission by the child of such an act as is mentioned in paragraph (a) above;

(c) [F88] . . . . . .

(d) that the child has acted in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.

(4) The maximum period permitted for the purposes of subsection (1)(a) above is **[**[F89]twelve months**]**.

(5) The requirements that may be specified under subsection (1)(b) above are those which the court considers desirable in the interests of—

(a) securing that the child receives appropriate care, protection and support and is subject to proper control; or

(b) preventing any repetition of the kind of behaviour which led to the child safety order being made.

(6) Proceedings under this section or section 12 below shall be family proceedings for the purposes of the 1989 Act [F90]...; and the standard of proof applicable to such proceedings shall be that applicable to civil proceedings.

(7) In this section "local authority" has the same meaning as in the 1989 Act.

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(8) In this section and section 12 below, "responsible officer", in relation to a child safety order, means one of the following who is specified in the order, namely—

(a) a social worker of a local authority [F91]. . . ; and

(b) a member of a youth offending team.

Textual Amendments

F87 Words in s. 11(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 147(2)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F88 S. 11(3)(c) repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(a), **Sch. 8 Pt. 13**

F89 Words in s. 11(4) substituted (1.3.2005) by Children Act 2004 (c. 31), **ss. 60(3)**, 67(7)(h); S.I. 2005/394, **art. 2(1)(j)**

F90 Words in s. 11(6) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 147(3)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F91 Words in s. 11(8)(a) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67(8), **Sch. 5 Pt. 4**, Note; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**

Commencement Information

I6 S. 11 wholly in force; S. 11 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

12 Child safety orders: supplemental.

(1) Before making a child safety order, **[**[F92] the family court **]** shall obtain and consider information about the child's family circumstances and the likely effect of the order on those circumstances.

(2) Before making a child safety order, **[**[F93] the family court **]** shall explain to the parent or guardian of the child in ordinary language—

(a) the effect of the order and of the requirements proposed to be included in it;

(b) the consequences which may follow (under subsection (6) below) if the child fails to comply with any of those requirements; and

(c) that the court has power (under subsection (4) below) to review the order on the application either of the parent or guardian or of the responsible officer.

(3) Requirements included in a child safety order shall, as far as practicable, be such as to avoid—

(a) any conflict with the parent's religious beliefs; and

(b) any interference with the times, if any, at which the child normally attends school.

(4) If while a child safety order is in force in respect of a child it appears to the court which made it, on the application of the responsible officer or a parent or guardian of the child, that it is appropriate to make an order under this subsection, the court may make an order discharging the child safety order or varying it—

(a) by cancelling any provision included in it; or

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(b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.

(5) Where an application under subsection (4) above for the discharge of a child safety order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.

(6) Where a child safety order is in force and it is proved to the satisfaction of the court which made it [F94]..., on the application of the responsible officer, that the child has failed to comply with any requirement included in the order, the court—

(a) [F95]. . . . . .

(b) may make an order varying the order—

(i) by cancelling any provision included in it; or

(ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.

(7) [F95]. . . . . .

Textual Amendments

F92 Words in s. 12(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 148(2)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F93 Words in s. 12(2) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 148(3)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F94 Words in s. 12(6) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 148(4)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F95 S. 12(6)(a)(7) repealed (1.3.2005) by Children Act 2004 (c. 31), ss. 60(4) , 67(7)(h), **Sch. 5 Pt. 6**, Note; S.I. 2005/394, **art. 2(1)(j)**

Commencement Information

I7 S. 12 wholly in force; S. 12 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

[F96]13 Appeals against child safety orders.

. . . . . .

Textual Amendments

F96 S. 13 omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 149**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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[F97 13A Parental compensation orders

(1) A magistrates' court may make an order under this section (a "parental compensation order") if on the application of a local authority it is satisfied, on the civil standard of proof—

(a) that the condition mentioned in subsection (2) below is fulfilled with respect to a child under the age of 10; and

(b) that it would be desirable to make the order in the interests of preventing a repetition of the behaviour in question.

(2) The condition is that the child has taken, or caused loss of or damage to, property in the course of—

(a) committing an act which, if he had been aged 10 or over, would have constituted an offence; or

(b) acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.

(3) A parental compensation order is an order which requires any person specified in the order who is a parent or guardian of the child (other than a local authority) to pay compensation of an amount specified in the order to any person or persons specified in the order who is, or are, affected by the taking of the property or its loss or damage.

(4) The amount of compensation specified may not exceed £5,000 in all.

(5) The Secretary of State may by order amend subsection (4) above so as to substitute a different amount.

(6) For the purposes of collection and enforcement, a parental compensation order is to be treated as if it were a sum adjudged to be paid on the conviction by the magistrates' court which made the order of the person or persons specified in the order as liable to pay the compensation.

(7) In this section and sections 13B and 13C below, "local authority" has the same meaning as in the 1989 Act.

Textual Amendments

F97 Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 2**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

13B Parental compensation orders: the compensation

(1) When specifying the amount of compensation for the purposes of section 13A(3) above, the magistrates' court shall take into account—

(a) the value of the property taken or damaged, or whose loss was caused, by the child;

(b) any further loss which flowed from the taking of or damage to the property, or from its loss;

(c) whether the child, or any parent or guardian of his, has already paid any compensation for the property (and if so, how much);

(d) whether the child, or any parent or guardian of his, has already made any reparation (and if so, what it consisted of);

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(e) the means of those to be specified in the order as liable to pay the compensation, so far as the court can ascertain them;

(f) whether there was any lack of care on the part of the person affected by the taking of the property or its loss or damage which made it easier for the child to take or damage the property or to cause its loss.

(2) If property taken is recovered before compensation is ordered to be paid in respect of it—

(a) the court shall not order any such compensation to be payable in respect of it if it is not damaged;

(b) if it is damaged, the damage shall be treated for the purposes of making a parental compensation order as having been caused by the child, regardless of how it was caused and who caused it.

(3) The court shall specify in the order how and by when the compensation is to be paid (for example, it may specify that the compensation is to be paid by instalments, and specify the date by which each instalment must be paid).

(4) For the purpose of ascertaining the means of the parent or guardian, the court may, before specifying the amount of compensation, order him to provide the court, within such period as it may specify in the order, such a statement of his **[**[F98]assets and other**]** financial circumstances as the court may require.

(5) A person who without reasonable excuse fails to comply with an order under subsection (4) above is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) If, in providing a statement [F99]... pursuant to an order under subsection (4) above, a person—

(a) makes a statement which he knows to be false in a material particular;

(b) recklessly provides a statement which is false in a material particular; or

(c) knowingly fails to disclose any material fact,

he is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) Proceedings in respect of an offence under subsection (6) above may, despite anything in section 127(1) of **[**[F100]the Magistrates' Courts Act 1980 ("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 of its first discovery by the local authority, whichever period expires earlier.

Textual Amendments

F97 Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 2**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

F98 Words in s. 13B(4) inserted (11.12.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 16 para. 27(a)**; S.I. 2013/2981, art. 2(d)

F99 Words in s. 13B(6) omitted (11.12.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 16 para. 27(b)**; S.I. 2013/2981, art. 2(d)

F100 Words in s. 13B(7) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 150**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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13C Parental compensation orders: supplemental

(1) Before deciding whether or not to make a parental compensation order in favour of any person, the magistrates' court shall take into account the views of that person about whether a parental compensation order should be made in his favour.

(2) Before making a parental compensation order, the magistrates' court shall obtain and consider information about the child's family circumstances and the likely effect of the order on those circumstances.

(3) Before making a parental compensation order, a magistrates' court shall explain to the parent or guardian of the child in ordinary language—
- (a) the effect of the order and of the requirements proposed to be included in it;
- (b) the consequences which may follow (under subsection (4)(b) below) as a result of failure to comply with any of those requirements;
- (c) that the court has power (under subsection (4)(a) below) to review the order on the application either of the parent or guardian or of the local authority.

(4) A magistrates' court which has made a parental compensation order may make an order under subsection (5) below if while the order is in force—
- (a) it appears to the court, on the application of the local authority, or the parent or guardian subject to the order, that it is appropriate to make an order under subsection (5); or
- (b) it is proved to the satisfaction of the court, on the application of the local authority, that the parent or guardian subject to it has failed to comply with any requirement included in the order.

(5) An order under this subsection is an order discharging the parental compensation order or varying it—
- (a) by cancelling any provision included in it; or
- (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.

(6) Where an application under subsection (4) above for the discharge of a parental compensation order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.

(7) References in this section to the magistrates' court which made a parental compensation order include any magistrates' court acting in the same local justice area as that court.

Textual Amendments

F97 Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 2**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

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13D Parental compensation orders: appeal

(1) If a magistrates' court makes a parental compensation order, the parent or guardian may appeal against the making of the order, or against the amount of compensation specified in the order.

(2) The appeal lies to the Crown Court.

(3) On the appeal the Crown Court—

(a) may make such orders as may be necessary to give effect to its determination of the appeal;

(b) may also make such incidental or consequential orders as appear to it to be just.

(4) Any order of the Crown Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of section 13C above, be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the Crown Court.

(5) A person in whose favour a parental compensation order is made shall not be entitled to receive any compensation under it until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

Textual Amendments

F97 Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 2**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

13E Effect of parental compensation order on subsequent award of damages in civil proceedings

(1) This section has effect where—

(a) a parental compensation order has been made in favour of any person in respect of any taking or loss of property or damage to it; and

(b) a claim by him in civil proceedings for damages in respect of the taking, loss or damage is then to be determined.

(2) The damages in the civil proceedings shall be assessed without regard to the parental compensation order, but the claimant may recover only an amount equal to the aggregate of the following—

(a) any amount by which they exceed the compensation; and

(b) a sum equal to any portion of the compensation which he fails to recover.

(3) The claimant may not enforce the judgment, so far as it relates to such a sum as is mentioned in subsection (2)(b) above, without the permission of the court.**]**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F97 Ss. 13A-13E inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 2**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

14 Local child curfew schemes.

F101 . . . . . .

Textual Amendments

F101 S. 14 repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(1)(2), 116(6)(a), Sch. 7 para. 134(2), **Sch. 8 Pt. 13**

15 Contravention of curfew notices.

F102 . . . . . .

Textual Amendments

F102 S. 15 repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(1)(2), 116(6)(a), Sch. 7 para. 134(2), **Sch. 8 Pt. 13**

16 Removal of truants [F103and excluded pupils] to designated premises etc.

(1) This section applies where a local authority—

(a) designates premises in a police area ("designated premises") as premises to which children and young persons of compulsory school age may be removed under this section; and

(b) notifies the chief officer of police for that area of the designation.

(2) A police officer of or above the rank of superintendent may direct that the powers conferred on a constable by **[**F104subsections (3) and (3ZA)**]** below—

(a) shall be exercisable as respects any area falling within the police area and specified in the direction; and

(b) shall be so exercisable during a period so specified;

and references in **[**F105each of those subsections**]** to a specified area and a specified period shall be construed accordingly.

(3) If a constable has reasonable cause to believe that a child or young person found by him in a public place in a specified area during a specified period—

(a) is of compulsory school age; and

(b) is absent from a school without lawful authority,

the constable may remove the child or young person to designated premises, or to the school from which he is so absent.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F106](3ZA) If a constable has reasonable cause to believe that a child or young person found by him in a public place in a specified area during a specified period and during school hours—

(a) is of compulsory school age,

(b) has been excluded on disciplinary grounds from a relevant school for a fixed period or permanently,

(c) remains excluded from that school,

(d) has not subsequently been admitted as a pupil to any other school, and

(e) has no reasonable justification for being in the public place,

the constable may remove the child or young person to designated premises.**]**

[[F107](3A) Subsection (2) shall have effect in relation to The British Transport Police Force; and for that purpose the reference to any area falling within the police area shall be treated as a reference to any area in a place specified in section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003.**]**

[[F108](3B) In subsection (3ZA), "school hours" means any time during a school session of the school referred to in paragraph (b) of that subsection or during a break between sessions of that school on the same day.**]**

(4) A child's or young person's absence from a school shall be taken to be without lawful authority **[**[F109]unless the child or young person is prevented from attending by sickness or other unavoidable cause or the absence falls within subsection (3) (leave or day set apart for religious observance) of section 444 of the Education Act 1996**]**.

(5) In this section—

[[F110]"British Transport Police" means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);**]**

"local authority" means—

(a) in relation to England, a county council, a district council whose district does not form part of an area that has a county council, a London borough council or the Common Council of the City of London;

(b) in relation to Wales, a county council or a county borough council;

[F111] . . .

"public place" has the same meaning as in **[**[F112]Part 2 of the Public Order Act 1986**]**;

[[F113]"relevant school" has the meaning given by section 111 of the Education and Inspections Act 2006;**]**

"school" has the same meaning as in the [M5]Education Act 1996.

Textual Amendments

F103 Words in s. 16 heading inserted (1.9.2007 for E. and 31.10.2010 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 108(6)**, 188(3); S.I. 2007/1801, **art. 3(e)**; S.I. 2010/2543, **art. 2(j)**

F104 Words in s. 16(2) inserted (1.9.2007 for E. and 31.10.2010 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 108(2)(a)**, 188(3); S.I. 2007/1801, **art. 3(e)**; S.I. 2010/2543, **art. 2(j)**

F105 Words in s. 16(2) substituted (1.9.2007 for E. and 31.10.2010 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 108(2)(b)**, 188(3); S.I. 2007/1801, **art. 3(e)**; S.I. 2010/2543, **art. 2(j)**

F106 S. 16(3ZA) inserted (1.9.2007 for E. and 31.10.2010 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 108(3)**, 188(3); S.I. 2007/1801, **art. 3(e)**; S.I. 2010/2543, **art. 2(j)**

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F107 S. 16(3A) substituted (1.7.2004) by The British Transport Police (Transitional and Consequential Provisions) Order 2004 (S.I. 2004/1573), **art. 12(5)(c)**

F108 S. 16(3B) inserted (1.9.2007 for E. and 31.10.2010 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 108(4)**, 188(3); S.I. 2007/1801, **art. 3(e)**; S.I. 2010/2543, **art. 2(j)**

F109 Words in s. 16(4) substituted (8.11.2006) by Education and Inspections Act 2006 (c. 40), **ss. 109(10)**, 188(1)

F110 S. 16(5): definition of "British Transport Police" inserted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 75(2)(a)**; S.I. 2002/2306, **art. 2(d)(vii)**; and that definition ceased to have effect (1.7.2004) by virtue of Railways and Transport Safety Act 2003 (c. 20), ss. 73, 120(1), **Sch. 5 para. 4(1)(b)(2)(j)**; S.I. 2004/1572, **art. 3(jjj)**

F111 S. 16(5): 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(5)(d)**

F112 S. 16(5): words in definition of "public place" substituted (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(1), 116(6)(a), **Sch. 7 para. 134(3)**

F113 S. 16(5): definition of "relevant school" inserted (1.9.2007 for E. and 31.10.2010 for W.) by Education and Inspections Act 2006 (c. 40), **ss. 108(5)**, 188(3); S.I. 2007/1801, **art. 3(e)**; S.I. 2010/2543, **art. 2(j)**

Modifications etc. (not altering text)

C14 S. 16 amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 73(1), 120(1), **Sch. 5 para. 4(1)(a)(2)(j)**; S.I. 2004/1572, **art. 3(jjj)**

Marginal Citations

M5 1996 c.56.

Miscellaneous and supplemental

17 Duty to consider crime and disorder implications.

(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,

[[F114](a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and

(b) the misuse of drugs, alcohol and other substances in its area**][**[F115]; and

(c) re-offending in its area**]**

[[F116](2) This section applies to each of the following—

a local authority;

a joint authority;

[[F117]a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;**]**

[[F118]the London Fire Commissioner;**]**

a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;

[[F119]a fire and rescue authority created by an order under section 4A of that Act;**]**

a metropolitan county fire authority;

[[F120]a local policing body**]**;

a National Park authority;

the Broads Authority;

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[[F121]the Greater London Authority;
[F122]…
Transport for London.**]]**

(3) In this section—

"local authority" means a local authority within the meaning given by section 270(1) of the [M6]Local Government Act 1972 or the Common Council of the City of London;

"joint authority" has the same meaning as in the [M7]Local Government Act 1985;

"National Park authority" means an authority established under section 63 of the [M8]Environment Act 1995.

[[F123](4) The appropriate national authority may by order amend this section by—

(a) adding an entry for any person or body to the list of authorities in subsection (2),

(b) altering or repealing any entry for the time being included in the list, or

(c) adding, altering or repealing provisions for the interpretation of entries in the list.

(5) In subsection (4) "the appropriate national authority" has the same meaning as in section 5.**]**

Textual Amendments

F114 S. 17(1)(a)(b) substituted for words in s. 17(1) (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 4(2)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

F115 S. 17(1)(c) and preceding word inserted (1.4.2010) by Policing and Crime Act 2009 (c. 26), **ss. 108(6)**, 116(1); S.I. 2010/507, **art. 5(p)**

F116 S. 17(2) substituted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 4(3)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

F117 Words in s. 17(2) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 119, 148(6), **Sch. 6 para. 90**; S.I. 2009/3318, **art. 2(b)(c)**

F118 Words in s. 17(2) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 105**; S.I. 2018/227, **reg. 4(c)**

F119 Words in s. 17(2) inserted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 79**

F120 Words in s. 17(2) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 99, 157(1), **Sch. 16 para. 233**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (nnn)(iii)

F121 Words in s. 17(2) inserted (15.2.2008) by The Crime and Disorder Act 1998 (Additional Authorities) Order 2008 (S.I. 2008/78), **art. 2**

F122 Words in s. 17(2) repealed (31.3.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 25 Pt. 32**; S.I. 2012/628, art. 4(d)

F123 S. 17(4)(5) inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 4(4)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

Commencement Information

I8 S. 17 wholly in force; S. 17 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Marginal Citations

M6 1972 c.70.
M7 1985 c.51.
M8 1995 c.25.

[[F124]17A Sharing of information

(1) A relevant authority is under a duty to disclose to all other relevant authorities any information held by the authority which is of a prescribed description, at such intervals and in such form as may be prescribed.

(2) In subsection (1) "prescribed" means prescribed in regulations made by the Secretary of State.

(3) The Secretary of State may only prescribe descriptions of information which appears to him to be of potential relevance in relation to the reduction of crime and disorder in any area of England and Wales (including anti-social or other behaviour adversely affecting the local environment in that area).

(4) Nothing in this section requires a relevant authority to disclose any personal data (within the meaning of the Data Protection Act 1998).

(5) In this section "relevant authority" means an authority in England and Wales which is for the time being a relevant authority for the purposes of section 115.**]**

Textual Amendments

F124 S. 17A inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 5**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

18 Interpretation etc. of Chapter I.

(1) In this Chapter—

[F125]…

"chief officer of police" has the meaning given by section 101(1) of the [M9]Police Act 1996;

"child safety order" has the meaning given by section 11(1) above;

[F126]. . . . . .

[F125]…

[F126]. . . . . .

[[F127]"local policing body" has the meaning given by section 101(1) of the Police Act 1996;**]**

[[F128]"parental compensation order" has the meaning given by section 13A(1) above;**]**

"parenting order" has the meaning given by section 8(4) above;

"police area" has the meaning given by section 1(2) of the [M10]Police Act 1996;

[F129]…

"responsible officer"—

(za) [F130]...

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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(a) in relation to a parenting order, has the meaning given by section 8(8) above;

(b) in relation to a child safety order, has the meaning given by section 11(8) above;

[[F131]"serious harm" shall be construed in accordance with section 224 of the Criminal Justice Act 2003;**]**

[F132] . . . . . .

(2) [F133] . . . . . .

(3) Where directions under a parenting order are to be given by **[**[F134]an officer of a local probation board**]**, **[**[F134]the officer of a local probation board**]** shall be an officer appointed for or assigned to the **[**[F135]local justice area**]** within which it appears to the court that the child or, as the case may be, the parent resides or will reside.

[[F136](3A) Where directions under a parenting order are to be given by an officer of a provider of probation services, the officer of a provider of probation services shall be an officer acting in the local justice area within which it appears to the court that the child or, as the case may be, the parent resides or will reside.**]**

(4) Where the supervision under a child safety order is to be provided, or directions under [F137]... a parenting order are to be given, by—

(a) a social worker of a local authority [F138]. . . ; or

(b) a member of a youth offending team,

the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area it appears to the court that **[**[F139] the child or, as the case may be, the parent **]**, resides or will reside.

(5) For the purposes of this Chapter the Inner Temple and the Middle Temple form part of the City of London.

Textual Amendments

F125 Words in s. 18(1) omitted (23.3.2015) by virtue of Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 27(2)(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(vii)

F126 S. 18(1): definitions of "curfew notice" and "local child curfew scheme" repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(b), **Sch. 8 Pt. 13**

F127 S. 18(1): definition of "local policing body" inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 99, 157(1), **Sch. 16 para. 234(2)**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (nnn)(iii)

F128 S. 18(1): definition of "parental compensation order" inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 4**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

F129 Definition in s. 18(1) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 234(3)**; S.I. 2012/2892, art. 2(i)

F130 Words in s. 18(1) omitted (23.3.2015) by virtue of Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 27(2)(b)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(vii)

F131 S. 18(1): definition of "serious harm" inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 336(3), **Sch. 32 para. 88(a)**; S.I. 2005/950, **art. 2**, Sch. 1 para. 42(33) (with Sch. 2)

F132 S. 18(1): definition of "sex offender order" repealed (8.11.2006) by Violent Crime Reduction Act 2006 (c. 38), ss. 60(3), 65, 66(2)(d), **Sch. 5**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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F133 S. 18(2) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 332, 336(3), Sch. 32 para. 88(b), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 paras. 42(33), 44(4)(p) (with Sch. 2)

F134 Words in s. 18(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4**; S.I. 2001/919, **art. 2(f)(i)**

F135 Words in s. 18(3) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 58**

F136 S. 18(3A) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 13(5)**

F137 Words in s. 18(4) omitted (23.3.2015) by virtue of Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 27(3)(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(vii)

F138 Words in s. 18(4)(a) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67(8), **Sch. 5 Pt. 4**, Note; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**

F139 Words in s. 18(4) substituted (23.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 27(3)(b)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(vii)

Modifications etc. (not altering text)

C15 S. 18(3)(4) applied (27.2.2004) by Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), **Sch. 1 para. 9D(7)** (as inserted by Crime and Disorder Act 2003 (c. 44), ss. 324, 336(3), **Sch. 34 para. 6**; S.I. 2004/81, **art. 5(2)(d)**)

Commencement Information

I9 S. 18 wholly in force; s. 18 not in force at Royal Assent see s. 121; In force at 30.9.1998 by 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

Marginal Citations

M9 1996 c.16.

M10 1996 c.16.

CHAPTER II

SCOTLAND

19 Anti-social behaviour orders.

F140 . . . . . .

Textual Amendments

F140 S. 19 repealed (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(2), 145(2), **sch. 5**; S.S.I. 2004/420, **art. 3**, sch. 1 (with art. 4)

20 Sex offender orders.

F141 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F141 S. 20 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141(1), Sch. 6 para. 38(4), **Sch. 7**; S.I. 2004/874, **art. 2**

21 Procedural provisions with respect to orders.

F142 . . . . . .

Textual Amendments

F142 S. 21 repealed (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(2), 145(2), **sch. 5**; S.S.I. 2004/420, **art. 3**, sch. 1 (with art. 4)

[F143 21A Sex offender orders made in England and Wales or Northern Ireland

F144 . . . . . .]

Textual Amendments

F143 S. 21A inserted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 71**; S.I. 2002/420, **art. 2**

F144 S. 21A repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141(1), Sch. 6 para. 38(6), **Sch. 7**; S.I. 2004/874, **art. 2**

22 Offences in connection with breach of orders.

F145 . . . . . .

Textual Amendments

F145 S. 22 repealed (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(2), 145(2), **sch. 5**; S.S.I. 2004/420, **art. 3**, sch. 1 (with art. 4)

[F146 22A Anti-social behaviour strategies

F147 . . . . . .]

Textual Amendments

F146 S. 22A inserted (prosp.) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 83**, 89

F147 S. 22A repealed (28.10.2004) (never in force) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(2), 145(2), **Sch. 5**; S.S.I. 2004/420, **art. 3**, sch. 1 (with art. 4)

23 Anti-social behaviour as ground of eviction.

(1) F148 . . . . . .

(2) F148 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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(3) [F148] . . . . . .

(4) For Ground 15 in Schedule 5 to the [M11]Housing (Scotland) Act 1988 (eviction on ground of use of premises for immoral or illegal purposes etc.) there shall be substituted the following—

Ground 15

The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has—

(a) been convicted of—

(i) using or allowing the house to be used for immoral or illegal purposes; or

(ii) an offence punishable by imprisonment committed in, or in the locality of, the house; or

(b) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or

(c) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.

In this Ground "anti-social", in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance, "conduct" includes speech and a course of conduct must involve conduct on at least two occasions and "tenant" includes any one of joint tenants."

(5) No person shall be liable to eviction under paragraph 2 or 7 of Schedule 3 to the [M12]Housing (Scotland) Act 1987 or Ground 15 in Schedule 5 to the [M13]Housing (Scotland) Act 1988 as substituted respectively by subsection (2), (3) and (4) above in respect of any act or conduct before the commencement of this section unless he would have been liable to be evicted under those paragraphs or, as the case may be, that Ground as they had effect before that substitution.

Textual Amendments

F148 S. 23(1)-(3) repealed (30.9.2002) by The Housing (Scotland) Act 2001 (asp 10), s. 112, Sch. 10 para. 27; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

Marginal Citations

M11 1988 c.43.

M12 1987 c.26.

M13 1988 c.43.

24 Noise-making equipment: police power of seizure.

(1) The [M14]Civic Government (Scotland) Act 1982 shall be amended in accordance with this section.

(2) In section 54 (offence of playing instruments, etc.), after subsection (2) there shall be inserted the following subsections—

"(2A) Where a constable reasonably suspects that an offence under subsection (1) above has been committed in relation to a musical instrument or in relation to such a device as is mentioned in paragraph (c) of that subsection, he may

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

enter any premises on which he reasonably suspects that instrument or device to be and seize any such instrument or device he finds there.

(2B) A constable may use reasonable force in the exercise of the power conferred by subsection (2A) above.

(2C) Schedule 2A to this Act (which makes provision in relation to the retention and disposal of property seized under subsection (2A) above) shall have effect."

(3) In section 60 (powers of search and seizure)—

(a) in subsection (5)—

(i) after the words "Nothing in" there shall be inserted the words " section 54(2A) of this Act or "; and

(ii) for the words from "which" to the end there shall be substituted the words " which is otherwise exercisable by a constable "; and

(b) in subsection (6)—

(i) in paragraph (a), for the words from "in pursuance" to the word "vessel" there shall be substituted the words—

"to enter and search—

(i) any premises in pursuance of section 54(2A) of this Act or of subsection (1) above; or

(ii) any vehicle or vessel in pursuance of the said subsection (1),"; and

(ii) in paragraph (c), after "under" there shall be inserted the words " section 54(2A) of this Act or ".

(4) After Schedule 2 there shall be inserted the Schedule set out in Schedule 1 to this Act.

Marginal Citations

M14 1982 c.45.

CHAPTER III

GREAT BRITAIN

25 Powers to require removal of masks etc.

[[F149](1) After subsection (4) of section 60 (powers to stop and search in anticipation of violence) of the [M15]Criminal Justice and Public Order Act 1994 ("the 1994 Act") there shall be inserted the following subsection—

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

(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."**]**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (5) of that section, for the words "those powers" there shall be substituted the words " the powers conferred by subsection (4) above ".

(3) In subsection (8) of that section, for the words "to stop or (as the case may be) to stop the vehicle" there shall be substituted the following paragraphs—

"(a) to stop, or to stop a vehicle; or

(b) to remove an item worn by him,".

Textual Amendments

F149 S. 25(1) repealed (E.W.) (14.12.2001) by 2001 c. 24, ss. 125, 127(2)(i), **Sch. 8 Pt. 6**

Commencement Information

I10 S. 25 wholly in force at 1.3.1999; S. 25 not in force at Royal Assent, see s. 121; S. 25 expressed to be in force at 1.12.1998 by S.I. 1998/2327, **art. 4(1)** (which entry relating to the commencement of s. 25 omitted (30.8.1998) by virtue of S.I. 1998/2906, **art. 2**); S. 25 in force at 1.3.1999 by S.I. 1998/3263, **art. 4**

Marginal Citations

M15 1994 c.33.

26 Retention and disposal of things seized.

After section 60 of the 1994 Act there shall be inserted the following section—

"60A Retention and disposal of things seized under section 60.

(1) Any things seized by a constable under section 60 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."

Commencement Information

I11 S. 26 wholly in force at 1.3.1999; S. 26 not in force at Royal Assent, see s. 121; S. 26 in force at 1.12.1998 for the purpose of making regulations under s. 60A of the Criminal Justice and Public Order Act 1994 by S.I. 1998/2327, **art. 4(1)** (as amended by 1998/2906, art. 2(3)); S. 26 in force at 1.3.1999 by S.I. 1998/3263, **art. 4**

27 Power of arrest for failure to comply with requirement.

(1) [F150] . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) After section 60A of the 1994 Act there shall be inserted the following section—

"60B Arrest without warrant for offences under section 60: Scotland.

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

Textual Amendments

F150 S. 27(1) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174(2), 178(8), **Sch. 17 Pt. 2**; S.I. 2005/3495 art. 2(1)(u)(xlii)

Commencement Information

I12 S. 27 wholly in force at 1.3.1999; S. 27 not in force at Royal Assent, see s. 121; S. 27 expressed to be in force at 1.12.1998 by S.I. 1998/2327, **art. 4(1)** (which entry relating to the commnecement of s. 27 omitted (30.8.1998) by virtue of 1998/2906, art. 2(2)); S. 27 in force at 1.3.1999 by S.I. 1998/3263, **art. 4**

PART II

CRIMINAL LAW

[F151 Racially or religiously aggravated] offences: England and Wales

Textual Amendments

F151 Words in the cross-heading substituted (14.12.2001) by 2001 c. 24, **ss. 39(2)**, 127(2) (with s. 42)

28 Meaning of " [F152 racially or religiously aggravated]".

(1) An offence is **[**F152 racially or religiously aggravated**]** for the purposes of sections 29 to 32 below if—

(a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a **[**F153 racial or religious group**]**; or

(b) the offence is motivated (wholly or partly) by hostility towards members of a **[**F153 racial or religious group**]** based on their membership of that group.

(2) In subsection (1)(a) above—

"membership", in relation to a **[**F153 racial or religious group**]**, includes association with members of that group;

"presumed" means presumed by the offender.

(3) It is immaterial for the purposes of paragraph (a) or (b) of subsection (1) above whether or not the offender's hostility is also based, to any extent, **[**F154 on any other factor not mentioned in that paragraph.**]**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In this section "racial group" means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

[[F155](5) In this section "religious group" means a group of persons defined by reference to religious belief or lack of religious belief.**]**

Textual Amendments

F152 Words in s. 28(1) and the sidenote substituted (14.12.2001) by 2001 c. 24, **ss. 39(3)(a)**, 127(2) (with s. 42)

F153 Words in s. 28(1)(2) substituted (14.12.2001) by 2001 c. 24, **ss. 39(3)(b)**, 127(2) (with s. 42)

F154 Words in s. 28(3) substituted (14.12.2001) for s. 28(3)(a)(b) by 2001 c. 24, **ss. 39(3)(c)**, 127(2) (with s. 42)

F155 S. 28(5) inserted (14.12.2001) by 2001 c. 24, **ss. 39(4)**, 127(2) (with s. 42)

Modifications etc. (not altering text)

C16 S. 28 applied (25.8.2000) by 2000 c. 6, **ss. 153(3)**, 168(1)

C17 S. 28 applied (18.12.2003) by Criminal Justice Act 2003 (c. 44), ss. 269(5), 336(2), **Sch. 21 para. 2**

C18 S. 28 applied (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 145(3)**, 336(3); S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (with Sch. 2)

C19 S. 28 applied (28.3.2009 for specified purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), **ss. 240(4)**, 383(2) (with ss. 271(1), 385); S.I. 2009/812, **art. 3(a)(b)**; S.I. 2009/1167, **art. 4**

C20 S. 28(2) applied (31.3.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 47(2)**, 93(1); S.I. 2004/690, **art. 3(g)**; S.I. 2004/999, **art. 2(g)**

Commencement Information

I13 S. 28 wholly in force; S. 28 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

29 [[F156]Racially or religiously aggravated] assaults.

(1) A person is guilty of an offence under this section if he commits—

(a) an offence under section 20 of the Offences Against the [M16]Person Act 1861 (malicious wounding or grievous bodily harm);

(b) an offence under section 47 of that Act (actual bodily harm); or

(c) common assault,

which is **[**[F157]racially or religiously aggravated**]** for the purposes of this section.

(2) A person guilty of an offence falling within subsection (1)(a) or (b) above shall be liable—

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

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine, or to both.

(3) A person guilty of an offence falling within subsection (1)(c) above shall be liable—

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

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

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F156 Words in the sidenote to s. 28 substituted (14.12.2001) by 2001 c. 24, **ss. 39(5)(a)(6)(a)** (with s. 42)

F157 Words in s. 29(1) substituted (14.12.2001) by 2001 c. 24, **ss. 39(5)(b)(6)(a)** (with s. 42)

Commencement Information

I14 S. 29 wholly in force; S. 29 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M16 1861 c.100.

30 [F158Racially or religiously aggravated] criminal damage.

(1) A person is guilty of an offence under this section if he commits an offence under section 1(1) of the M17Criminal Damage Act 1971 (destroying or damaging property belonging to another) which is [F159racially or religiously aggravated] for the purposes of this section.

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

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

(b) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine, or to both.

(3) For the purposes of this section, section 28(1)(a) above shall have effect as if the person to whom the property belongs or is treated as belonging for the purposes of that Act were the victim of the offence.

Textual Amendments

F158 Words in the sidenote to s. 30 substituted (14.12.2001) by 2001 c. 24, **ss. 39(5)(a)(6)(b)** (with s. 42)

F159 Words in s. 30(1) substituted (14.12.2001) by 2001 c. 24, **ss. 39(5)(b)(6)(b)** (with s. 42)

Commencement Information

I15 S. 30 wholly in force; S. 30 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M17 1971 c.48.

31 [F160Racially or religiously aggravated] public order offences.

(1) A person is guilty of an offence under this section if he commits—

(a) an offence under section 4 of the M18Public Order Act 1986 (fear or provocation of violence);

(b) an offence under section 4A of that Act (intentional harassment, alarm or distress); or

(c) an offence under section 5 of that Act (harassment, alarm or distress),

which is [F161racially or religiously aggravated] for the purposes of this section.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

(3) [F162] . . . . . .

(4) A person guilty of an offence falling within subsection (1)(a) or (b) above shall be liable—

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

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

(5) A person guilty of an offence falling within subsection (1)(c) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) If, on the trial on indictment of a person charged with an offence falling within subsection (1)(a) or (b) above, the jury find him not guilty of the offence charged, they may find him guilty of the basic offence mentioned in that provision.

(7) For the purposes of subsection (1)(c) above, section 28(1)(a) above shall have effect as if the person likely to be caused harassment, alarm or distress were the victim of the offence.

Textual Amendments

F160 Words in the sidenote to s. 31 substituted (14.12.2001) by 2001 c. 24, **ss. 39(5)(a)(6)(c)** (with s. 42)

F161 Words in s. 31(1) substituted (14.12.2001) by 2001 c. 24, **ss. 39(5)(b)(6)(c)** (with s. 42)

F162 S. 31(2)(3) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 111, 174(2), 178(8), Sch. 7 para. 34, **Sch. 17 Pt. 2**; S.I. 2005/3495 art. 2(1)(m)(u)(xlii)

Commencement Information

I16 S. 31 wholly in force; S. 31 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M18 1986 c.64.

32 [F163Racially or religiously aggravated] harassment etc.

(1) A person is guilty of an offence under this section if he commits—

(a) an offence under section 2 [F164or 2A] of the M19Protection from Harassment Act 1997 ([F165offences of harassment and stalking]); or

(b) an offence under section 4 [F166or 4A] of that Act (putting people in fear of violence [F167and stalking involving fear of violence or serious alarm or distress]),

which is [F168racially or religiously aggravated] for the purposes of this section.

F169(2) . . . . . .

(3) A person guilty of an offence falling within subsection (1)(a) above shall be liable—

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

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

(4) A person guilty of an offence falling within subsection (1)(b) above shall be liable—

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

(b) on conviction on indictment, to imprisonment for a term not exceeding **[**[F170] 14 years **]** or to a fine, or to both.

(5) If, on the trial on indictment of a person charged with an offence falling within subsection (1)(a) above, the jury find him not guilty of the offence charged, they may find him guilty of **[**[F171]either basic offence**]** mentioned in that provision.

(6) If, on the trial on indictment of a person charged with an offence falling within subsection (1)(b) above, the jury find him not guilty of the offence charged, they may find him guilty of an offence falling within subsection (1)(a) above.

(7) [F172]. . . . . .

Textual Amendments

F163 Words in the sidenote to s. 32 substituted (14.12.2001) by 2001 c. 24, **ss. 39(5)(a)(6)(d)**, 127(2) (with s. 42)

F164 Words in s. 32(1)(a) inserted (25.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 144(2)(a)(i)** (with s. 97); S.I. 2012/2075, art. 5(d)

F165 Words in s. 32(1)(a) substituted (25.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 144(2)(a)(ii)** (with s. 97); S.I. 2012/2075, art. 5(d)

F166 Words in s. 32(1)(b) inserted (25.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 144(2)(b)(i)** (with s. 97); S.I. 2012/2075, art. 5(d)

F167 Words in s. 32(1)(b) inserted (25.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 144(2)(b)(ii)** (with s. 97); S.I. 2012/2075, art. 5(d)

F168 Words in s. 32(1) substituted (14.12.2001) by 2001 c. 24, **ss. 39(5)(b)(6)(d)**, 127(2) (with s. 42)

F169 S. 32(2) repealed (1.10.2002) by Police Reform Act 2002 (c. 30), s. 107(2), **Sch. 8**; S.I. 2002/2306, **art. 2(g)(iii)(f)**

F170 Words in s. 32(4)(b) substituted (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. 175(2)**, 183(1)(5)(e) (with s. 175(3)); S.I. 2017/399, reg. 2, Sch. para. 35

F171 Words in s. 32(5) substituted (25.11.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 144(3)** (with s. 97); S.I. 2012/2075, art. 5(d)

F172 S. 32(7) repealed (30.9.2009) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58, 60, Sch. 10 para. 48, **Sch. 11** (with Sch. 12 para. 5(1)); S.I. 2009/2616, **art. 2**

Commencement Information

I17 S. 32 wholly in force; S. 32 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M19 1997 c.40.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Racially-aggravated offences: Scotland

33 Racially-aggravated offences.

After section 50 of the [M20]Criminal Law (Consolidation) (Scotland) Act 1995 there shall be inserted the following section—

" Racially-aggravated harassment

50A Racially-aggravated harassment.

(1) A person is guilty of an offence under this section if he—
- (a) pursues a racially-aggravated course of conduct which amounts to harassment of a person and—
  - (i) is intended to amount to harassment of that person; or
  - (ii) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person; or
- (b) acts in a manner which is racially aggravated and which causes, or is intended to cause, a person alarm or distress.

(2) For the purposes of this section a course of conduct or an action is racially aggravated if—
- (a) immediately before, during or immediately after carrying out the course of conduct or action the offender evinces towards the person affected malice and ill-will based on that person's membership (or presumed membership) of a racial group; or
- (b) the course of conduct or action is motivated (wholly or partly) by malice and ill-will towards members of a racial group based on their membership of that group.

(3) In subsection (2)(a) above—

"membership", in relation to a racial group, includes association with members of that group;

"presumed" means presumed by the offender.

(4) It is immaterial for the purposes of paragraph (a) or (b) of subsection (2) above whether or not the offender's malice and ill-will is also based, to any extent, on—
- (a) the fact or presumption that any person or group of persons belongs to any religious group; or
- (b) any other factor not mentioned in that paragraph.

(5) A person who is guilty of an offence under this section shall—
- (a) on summary conviction, be liable to a fine not exceeding the statutory maximum, or imprisonment for a period not exceeding six months, or both such fine and such imprisonment; and
- (b) on conviction on indictment, be liable to a fine or to imprisonment for a period not exceeding seven years, or both such fine and such imprisonment.

(6) In this section—

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"conduct" includes speech;

"harassment" of a person includes causing the person alarm or distress;

"racial group" means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins,

and a course of conduct must involve conduct on at least two occasions."

Commencement Information

I18 S. 33 wholly in force; S. 33 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M20 1995 c.39.

Miscellaneous

34 Abolition of rebuttable presumption that a child is doli incapax.

The rebuttable presumption of criminal law that a child aged 10 or over is incapable of committing an offence is hereby abolished.

Commencement Information

I19 S. 34 wholly in force; S. 34 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

35 Effect of child's silence at trial.

F173 . . . . . .

Textual Amendments

F173 S. 35 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

36 Abolition of death penalty for treason and piracy.

(1) In section I of the [M21]Treason Act (Ireland) 1537 (practising any harm etc. to, or slandering, the King, Queen or heirs apparent punishable as high treason), for the words "have and suffer such pains of death and" there shall be substituted the words " be liable to imprisonment for life and to such ".

(2) In the following enactments, namely—

(a) section II of the [M22]Crown of Ireland Act 1542 (occasioning disturbance etc. to the crown of Ireland punishable as high treason);

(b) section XII of the [M23]Act of Supremacy (Ireland) 1560 (penalties for maintaining or defending foreign authority);

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) section 3 of the [M24]Treason Act 1702 (endeavouring to hinder the succession to the Crown etc. punishable as high treason);

(d) section I of the [M25]Treason Act (Ireland) 1703 (which makes corresponding provision),

for the words "suffer pains of death" there shall be substituted the words " be liable to imprisonment for life ".

[F174](3) . . . . . .

(4) In section 1 of the [M26]Treason Act 1814 (form of sentence in case of high treason), for the words "such person shall be hanged by the neck until such person be dead", there shall be substituted the words " such person shall be liable to imprisonment for life ".

(5) In section 2 of the [M27]Piracy Act 1837 (punishment of piracy when murder is attempted), for the words "and being convicted thereof shall suffer death" there shall be substituted the words " and being convicted thereof shall be liable to imprisonment for life ".

[F174](6) . . . . . .

Textual Amendments

F174 S. 36(3)(6) repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

Commencement Information

I20 S. 36 wholly in force; s. 36 not in force at Royal Assent, see s. 121; s. 36 in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M21 1537 c.7.
M22 1542 c.1.
M23 1560 c.1.
M24 1702 c.21.
M25 1703 c. 5.
M26 1814 c.146.
M27 1837 c.88.

PART III

CRIMINAL JUSTICE SYSTEM

Youth justice

37 Aim of the youth justice system.

(1) It shall be the principal aim of the youth justice system to prevent offending by children and young persons.

(2) In addition to any other duty to which they are subject, it shall be the duty of all persons and bodies carrying out functions in relation to the youth justice system to have regard to that aim.

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I21 S. 37 wholly in force; S. 37 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

38 Local provision of youth justice services.

(1) It shall be the duty of each local authority, acting in co-operation with the persons and bodies mentioned in subsection (2) below, to secure that, to such extent as is appropriate for their area, all youth justice services are available there.

(2) It shall be the duty of—

(a) every chief officer of police or **[**[F175]local policing body**]** any part of whose police area lies within the local authority's area;

[[F176](aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;

(ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;**]** and

(b) every **[**[F177]local probation board**][**[F178], clinical commissioning group or**]**[F179]**[**[F180]... **[**[F181]Local Health Board**]**[F182]...**]** any part of whose area lies within that area,

to co-operate in the discharge by the local authority of their duty under subsection (1) above.

(3) The local authority and every person or body mentioned in subsection (2) above shall have power to make payments towards expenditure incurred in the provision of youth justice services—

(a) by making the payments directly; or

(b) by contributing to a fund, established and maintained by the local authority, out of which the payments may be made.

(4) In this section and sections 39 to 41 below "youth justice services" means any of the following, namely—

(a) the provision of persons to act as appropriate adults to safeguard the interests of children and young persons detained or questioned by police officers;

[[F183](aa) the provision of assistance to persons determining whether youth cautions should be given under section 66ZA below;**]**

(b) the assessment of children and young persons, and the provision for them of rehabilitation programmes, for the purposes of section **[**[F184]66ZB(2) or (3)**]** below;

[[F185](ba) the provision of assistance to persons determining whether youth conditional cautions (within the meaning of Chapter 1 of Part 4) should be given and which conditions to attach to such cautions;

(bb) the supervision and rehabilitation of persons to whom such cautions are given;**]**

(c) the provision of support for children and young persons remanded or committed on bail while awaiting trial or sentence;

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(d) the placement in local authority accommodation of children and young persons remanded **[**[F186]to such accommodation under section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012**]**;

(e) the provision of reports or other information required by courts in criminal proceedings against children and young persons;

[[F187](ee) the performance by youth offending teams and members of youth offending teams of functions under sections 25 to 27 of the Anti-social Behaviour Act 2003;**]**

(f) the provision of persons to act as responsible officers in relation to [F188]... parenting orders, child safety orders **[**[F189]and reparation orders**]**;

[[F190](fa) the provision of persons to act as responsible officers in relation to youth rehabilitation orders (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008);

(fb) the supervision of children and young persons sentenced to a youth rehabilitation order under that Part which includes a supervision requirement (within the meaning of that Part);**]**

(g) [F191]. . . . . .

(h) the supervision of children and young persons sentenced to a detention and training order **[**[F192](including an order under section 211 of the Armed Forces Act 2006)**]**[F193]. . . ;

[[F194](ha) supervision after the end of the term of such an order under section 256AA of the Criminal Justice Act 2003 (as applied by section 106B of the Powers of Criminal Courts (Sentencing) Act 2000);**]**

[[F195](i) post-release supervision in accordance with a licence under section 31 of the Crime (Sentences) Act 1997 or section 250 of the Criminal Justice Act 2003 of a person sentenced to detention under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000, section 226, 226B or 228 of the Criminal Justice Act 2003 or section 209, 218, 221, 221A or 222 of the Armed Forces Act 2006;

(ia) post-release supervision under section 256B of the Criminal Justice Act 2003;

(ib) supervision under section 256AA of the Criminal Justice Act 2003 of a person sentenced to detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 209 of the Armed Forces Act 2006;**]**

(j) the performance of functions under subsection (1) of **[**[F196]section 102 of the Powers of Criminal Courts (Sentencing) Act 2000 (period of detention and training under detention and training orders)**]** by such persons as may be authorised by the Secretary of State under that subsection.

[[F197](k) the implementation of referral orders within the meaning of **[**[F198]the Powers of Criminal Courts (sentencing) Act 2000**]**.**]**

(5) The Secretary of State may by order amend subsection (4) above so as to extend, restrict or otherwise alter the definition of "youth justice services" for the time being specified in that subsection.

Textual Amendments

F175 Words in s. 38(2)(a) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 99, 157(1), **Sch. 16 para. 235**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (nnn)(iii)

F176 S. 38(2)(aa)(ab) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(2)**; S.I. 2008/504, **art. 3(l)**

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F177 Words in s. 38(2)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 para. 151**; S.I. 2001/919, **art. 2(f)(ii)**

F178 Words in s. 38(2)(b) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 85(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F179 Words in s. 38(2)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 85(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F180 Words in s. 38(2)(b) substituted (8.2.2000) by The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90), arts. 1, 3(1), **Sch. 1 para. 35(3)**

F181 Words in s. 38(2)(b) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(b)**

F182 Words in s. 38(2)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 85(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F183 S. 38(4)(aa) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 15(a)** (with s. 135(4)); S.I. 2013/453, art. 4(f)

F184 Words in s. 38(4)(b) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 15(b)** (with s. 135(4)); S.I. 2013/453, art. 4(f)

F185 S. 38(4)(ba)(bb) inserted (16.11.2009 in relation to specified areas, otherwise prosp.) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), **Sch. 26 para. 34(3)**; S.I. 2009/2780, **art. 2(1)(d)**

F186 Words in s. 38(4)(d) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 37**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

F187 S. 38(4)(ee) inserted (27.2.2004) by Anti-social Behaviour Act 2003 (c. 38), **ss. 29(2)**, 93(1); S.I. 2003/3300, **art. 3(a)(iii)**

F188 Words in s. 38(4)(f) omitted (23.3.2015) by virtue of Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 28** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(vii)

F189 Words in s. 38(4)(f) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153(7), **Sch. 4 para. 49(a)**; S.I. 2009/3074, **art. 2(p)(v)**

F190 S. 38(4)(fa)(fb) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153(7), **Sch. 4 para. 49(b)**; S.I. 2009/3074, **art. 2(p)(v)**

F191 S. 38(4)(g) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 149, 153(7), Sch. 4 para. 49(c), **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2(p)(v)(u)(xvi)**

F192 Words in s. 38(4)(h) inserted (28.3.2009 for specified purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 153**; S.I. 2009/812, **art. 3(a)(b)**; S.I. 2009/1167, **art. 4**

F193 Words in s. 38(4)(h) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 149, 153(7), Sch. 4 para. 49(d), **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2(p)(v)(u)(xvi)**

F194 S. 38(4)(ha) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 9(2)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)

F195 S. 38(4)(i)-(ib) substituted for s. 38(4)(i) (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 9(3)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)

F196 Words in s. 38(4)(j) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 197(a)**

F197 S. 38(4)(k) inserted (26.6.2000) by 1999 c. 23, s. 67(1), Sch. 4 paras. 25, **28** (with Sch. 7 paras. 3(3), 5(2)); S.I. 2000/1587, **art. 2**

F198 Words in s. 38(4)(k) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 197(b)**

Commencement Information

I22 S. 38 wholly in force; S. 38 not in force at Royal Assent see s. 121. S. 38(4) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); S. 38(1)-(3)(5) in force at 30.8.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); s. 38 in force at 1.4.2000 by S.I. 2000/924, **art. 2**

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39 Youth offending teams.

(1) Subject to subsection (2) below, it shall be the duty of each local authority, acting in co-operation with the persons and bodies mentioned in subsection (3) below, to establish for their area one or more youth offending teams.

(2) Two (or more) local authorities acting together may establish one or more youth offending teams for both (or all) their areas; and where they do so—

(a) any reference in the following provisions of this section (except subsection (4)(b)) to, or to the area of, the local authority or a particular local authority shall be construed accordingly, and

(b) the reference in subsection (4)(b) to the local authority shall be construed as a reference to one of the authorities.

(3) It shall be the duty of—

(a) every chief officer of police any part of whose police area lies within the local authority's area;

[[F199](aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;

(ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;**]** and

(b) every **[**[F200]local probation board**][**[F201], clinical commissioning group or**][**[F202][F203]...**[**[F204]Local Health Board**]**[F205]...**]** any part of whose area lies within that area,

to co-operate in the discharge by the local authority of their duty under subsection (1) above.

(4) The local authority and every person or body mentioned in subsection (3) above shall have power to make payments towards expenditure incurred by, or for purposes connected with, youth offending teams—

(a) by making the payments directly; or

(b) by contributing to a fund, established and maintained by the local authority, out of which the payments may be made.

(5) A youth offending team shall include at least one of each of the following, namely—

(a) **[**[F206]an officer of a local probation board**][**[F207]or an officer of a provider of probation services**]**;

[[F208](aa) where the local authority is in England, a person with experience of social work in relation to children nominated by the director of children's services appointed by the local authority under section 18 of the Children Act 2004;**]**

(b) **[**[F209]where the local authority is in Wales, a social worker of the**]** local authority [F210]. . . ;

(c) a police officer;

(d) a person nominated by **[**[F211]a clinical commissioning group or**]**[F212]... a **[**[F204]Local Health Board**]** any part of whose area lies within the local authority's area;

[[F213](da) where the local authority is in England, a person with experience in education nominated by the director of children's services appointed by the local authority under section 18 of the Children Act 2004;**]**

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(e) **[**[F214]where the local authority is in Wales,**]** a person nominated by the chief education officer appointed by the local authority under section 532 of the [M28]Education Act 1996.

(6) A youth offending team may also include such other persons as the local authority thinks appropriate after consulting the persons and bodies mentioned in subsection (3) above.

(7) It shall be the duty of the youth offending team or teams established by a particular local authority—

(a) to co-ordinate the provision of youth justice services for all those in the authority's area who need them; and

(b) to carry out such functions as are assigned to the team or teams in the youth justice plan formulated by the authority under section 40(1) below.

Textual Amendments

F199 S. 39(3)(aa)(ab) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(3)(a)**; S.I. 2008/504, **art. 3(l)**

F200 Words in s. 39(3)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 151**; S.I. 2001/919, **art. 2(f)(ii)**

F201 Words in s. 39(3)(b) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 86(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F202 Words in s. 39(3)(b) substituted (8.2.2000) by The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90), arts. 1, 3(1), **Sch. 1 para. 35(4)**

F203 Words in s. 39(3)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 86(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F204 Words in s. 39(3)(b)(5)(d) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(c)**

F205 Words in s. 39(3)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 86(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F206 Words in s. 39(5)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)**, (2); S.I. 2001/919, **art. 2(f)(i)**

F207 Words in s. 39(5)(a) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(3)(b)**; S.I. 2008/504, **art. 3(l)**

F208 S. 39(5)(aa) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(a)**; S.I. 2007/1792, **art. 2**

F209 Words in s. 39(5)(b) substituted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(b)**; S.I. 2007/1792, **art. 2**

F210 Words in s. 39(5)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67(8), **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**

F211 Words in s. 39(5)(d) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 87(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F212 Words in s. 39(5)(d) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 87(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F213 S. 39(5)(da) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(c)**; S.I. 2007/1792, **art. 2**

F214 Words in s. 39(5)(e) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(d)**; S.I. 2007/1792, **art. 2**

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Modifications etc. (not altering text)

C21 Ss. 39-42 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), **art. 5(2)**, Sch. 1 (with art. 5(3))

Commencement Information

I23 S. 39 wholly in force at 1.4.2000; S. 39 not in force at Royal Assent see s. 121; S. 39 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); s. 39 in force at 1.4.2000 insofar as not already in force by S.I. 2000/924, **art. 2**

Marginal Citations

M28 1996 c.56.

[F215 39A Detention of child or young person: local authorities to be notified

(1) Subsection (2) applies where a youth offending team becomes aware that—

(a) a child or young person has become subject to a detention order and is detained in relevant youth accommodation, or

(b) a child or young person who is subject to a detention order has been transferred from one place of accommodation to another which is relevant youth accommodation.

(2) The youth offending team must as soon as practicable notify—

(a) the home local authority, and

(b) the host local authority,

of the place where the child or young person is detained.

(3) Subsection (4) applies where a youth offending team becomes aware that a person has been released having immediately before release been—

(a) subject to a detention order, and

(b) detained in relevant youth accommodation.

(4) The youth offending team must as soon as practicable notify the following authorities of the release—

(a) the home local authority;

(b) the host local authority;

(c) any other local authority in whose area the youth offending team expects the person to live on release.

(5) Nothing in this section requires a youth offending team to notify a local authority of any matter of which the authority is already aware.

(6) In this section—

"home local authority", in relation to a child or young person, means the local authority which is the home authority in relation to that person within the meaning of Chapter 5A of Part 10 of the Education Act 1996 (persons detained in youth accommodation);

"host local authority", in relation to a child or young person who is detained in relevant youth accommodation, means the local authority for the area in which that person is detained;

"local authority"has the meaning given by section 579(1) of the Education Act 1996;

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"young person" includes a person who is aged 18;

and references in this section to a person subject to a detention order and to relevant youth accommodation have the same meanings as they have in the Education Act 1996 (see section 562(1A) of that Act).**]**

Textual Amendments

F215 S. 39A inserted (1.9.2010 for E. and 1.4.2011 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 51** (as amended by S.I. 2010/1158, Sch. 2 para. 16(2)(3)(5)), 269(3)(f)(4); S.I. 2010/303, **art. 6(1)**, Sch. 5; S.I. 2011/829, **art. 2(c)**

40 Youth justice plans.

(1) It shall be the duty of each local authority, after consultation with the relevant persons and bodies, to formulate and implement for each year a plan (a "youth justice plan") setting out—

(a) how youth justice services in their area are to be provided and funded; and

(b) how the youth offending team or teams established by them (whether alone or jointly with one or more other local authorities) are to be composed and funded, how they are to operate, and what functions they are to carry out.

[F216](2) . . . . . .

[[F217](3) The functions assigned to a youth offending team under subsection (1)(b) above may include, in particular—

(a) functions under paragraph 7(b) of Schedule 2 to the 1989 Act (local authority's duty to take reasonable steps designed to encourage children and young persons not to commit offences);

(b) functions relating to a local authority's duty under section 15(2)(g) of the Social Services and Well-being (Wales) Act 2014 to provide or arrange for the provision of services for the purposes of encouraging children not to commit criminal offences.**]**

(4) A local authority shall submit their youth justice plan to the Board established under section 41 below, and shall publish it in such manner and by such date as the Secretary of State may direct.

Textual Amendments

F216 S. 40(2) repealed (23.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 50** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(xii)

F217 S. 40(3) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **161**

Modifications etc. (not altering text)

C22 S. 40: functions of the local authority not to be the sole responsibility of the executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 4(1), **Sch. 3**

C23 Ss. 39-42 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), **art. 5(2)**, Sch. 1 (with art. 5(3))

C24 S. 40(1) disapplied (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), **art. 5(1)**

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Commencement Information

I24 S. 40 wholly in force at 1.1.2000; S. 40 not in force at Royal Assent see s. 121; S. 40 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); s. 40 in force at 1.1.2000 insofar as not already in force by S.I. 1999/3426, **art. 2**

41 The Youth Justice Board.

(1) There shall be a body corporate to be known as the Youth Justice Board for England and Wales ("the Board").

(2) 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.

(3) The Board shall consist of 10, 11 or 12 members appointed by the Secretary of State.

(4) The members of the Board shall include persons who appear to the Secretary of State to have extensive recent experience of the youth justice system.

(5) The Board shall have the following functions, namely—

(a) to monitor the operation of the youth justice system and the provision of youth justice services;

(b) to advise the Secretary of State on the following matters, namely—

(i) the operation of that system and the provision of such services;

(ii) how the principal aim of that system might most effectively be pursued;

(iii) the content of any national standards he may see fit to set with respect to the provision of such services, or the accommodation in which children and young persons are kept in custody; and

(iv) the steps that might be taken to prevent offending by children and young persons;

(c) to monitor the extent to which that aim is being achieved and any such standards met;

(d) for the purposes of paragraphs (a), (b) and (c) above, to obtain information from relevant authorities;

(e) to publish information so obtained;

(f) to identify, to make known and to promote good practice in the following matters, namely—

(i) the operation of the youth justice system and the provision of youth justice services;

(ii) the prevention of offending by children and young persons; and

(iii) working with children and young persons who are or are at risk of becoming offenders;

[F218](g) . . . . . .

(h) [F219]... to commission research in connection with such practice.

[[F220](ha) with the approval of the Secretary of State, to make grants to local authorities and other persons for the purposes of the operation of the youth justice system and the provision of youth justice services, subject to such conditions as the Board considers appropriate, including conditions as to repayment;

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(hb) to provide assistance to local authorities and other persons in connection with information technology systems and equipment used or to be used for the purposes of the operation of the youth justice system and the provision of youth justice services;**]**

[[F221](i) to enter into agreements for the provision of—

[[F222](i) **[**[F223]youth detention accommodation**]**, within the meaning given by section 107 of the Powers of Criminal Courts (Sentencing) Act 2000, for the purpose of detaining persons subject to orders under section 100, 104(3)(a) or 105(2) of that Act or section 211 or 214 of the Armed Forces Act 2006;

(ii) accommodation which is or may be used for the purpose of detaining persons sentenced under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 **[**[F224] , section 226, 226B or 228 of the Criminal Justice Act 2003 **]** or section 209 **[**[F225] 218, 221, 221A or 222 **]** of the Armed Forces Act 2006;**]**

[F226](iii) . . . . . .

(iv) accommodation which is or may be used for the purpose of detaining persons who are under the age of 18 when remanded in custody under section 128 of the 1980 Act;

[F227](v) . . . . . .

[F227](vi) . . . . . .

[accommodation referred to in paragraph 14(3) of Schedule 5A to the [F228](vii) Policing and Crime Act 2009 which is or may be used for the purpose of detaining persons subject to a detention order under that Schedule;**]**

but no agreement shall be made under this paragraph in relation to accommodation for persons who have attained the age of 18 unless it appears to the Board that it is expedient to enter into such an agreement for the operation of the youth justice system;

(j) to facilitate arrangements between the Secretary of State and any person providing—

[[F229](i) **[**[F230]youth detention accommodation**]**, within the meaning given by section 107 of the Powers of Criminal Courts (Sentencing) Act 2000, to be used for detaining a person in accordance with a determination under section 102(1), 104(3)(a) or 105(2) of that Act or section 214(3) of the Armed Forces Act 2006; or

(ii) accommodation to be used for detaining a person in accordance with a direction by the Secretary of State under section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 or a determination by the Secretary of State under section 210 or 218(3) of the Armed Forces Act 2006;**]**

[at the request of the Secretary of State, to assist him in carrying out his [F231](ja) functions in relation to the release of offenders detained in accommodation which is youth detention accommodation, within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000;**]**

[F232](k) . . . . . .

(l) annually—

(i) to assess future demand for secure accommodation for remanded **[**[F233]children and young persons and secure and other accommodation for sentenced children and young persons**]**,

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(ii) to prepare a plan setting out how they intend to exercise, in the following three years, the functions described in paragraphs (i) and (k) above, and any function for the time being exercisable by the Board concurrently with the Secretary of State by virtue of subsection (6)(b) below which relates to securing the provision of such accommodation, and

(iii) to submit the plan to the Secretary of State for approval.**]**

(6) The Secretary of State may by order—

(a) amend subsection (5) above so as to add to, subtract from or alter any of the functions of the Board for the time being specified in that subsection; or

(b) provide that any function of his which is exercisable in relation to the youth justice system shall be exercisable concurrently with the Board.

[[F234](6A) The power of the Secretary of State under subsection (6)(b) includes power—

(a) to provide that, in relation to any function of his that is exercisable in respect of particular cases, the function is to be exercisable by the Board only—

(i) where it proposes to exercise the function in a particular manner, or

(ii) in respect of a class of case specified in the order, and

(b) to make any supplementary, incidental or consequential provision (including provision for any enactment to apply subject to modifications).**]**

(7) In carrying out their functions, the Board shall comply with any directions given by the Secretary of State and act in accordance with any guidance given by him.

(8) A relevant authority—

(a) shall furnish to the Board any information required for the purposes of subsection (5)(a), (b) or (c) above; and

(b) whenever so required by the Board, shall submit to the Board a report on such matters connected with the discharge of their duties under the foregoing provisions of this Part as may be specified in the requirement.

A requirement under paragraph (b) above may specify the form in which a report is to be given.

(9) The Board may arrange, or require the relevant authority to arrange, for a report under subsection (8)(b) above to be published in such manner as appears to the Board to be appropriate.

(10) In this section "relevant authority" means a local authority, a chief officer of police, a **[**[F235]local policing body**]**, a **[**[F236]local probation board**][**[F237]a provider of probation services**][**[F238], **[**[F239]a clinical commissioning group**][**[F240]and**]** a **[**[F241]Local Health Board**]**[F242]...**]**.

(11) Schedule 2 to this Act (which makes further provision with respect to the Board) shall have effect.

Textual Amendments

F218 S. 41(5)(g) omitted (28.1.2015) by virtue of The Youth Justice Board for England and Wales (Amendment of Functions) Order 2015 (S.I. 2015/79), arts. 1, **2(a)**

F219 Word in s. 41(5)(h) omitted (28.1.2015) by virtue of The Youth Justice Board for England and Wales (Amendment of Functions) Order 2015 (S.I. 2015/79), arts. 1, **2(b)**

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F220 S. 41(5)(ha)(hb) inserted (28.1.2015) by The Youth Justice Board for England and Wales (Amendment of Functions) Order 2015 (S.I. 2015/79), arts. 1, **2(c)**

F221 S. 41(5)(i)-(k) inserted (20.4.2000) by S.I. 2000/1160, **art. 3(b)**

F222 S. 41(5)(i)(i)(ii) substituted (28.3.2009 for specified purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 154(a)**; S.I. 2009/812, **art. 3(a)(b)**; S.I. 2009/1167, **art. 4**

F223 Words in s. 41(5)(i)(i) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 16(3)**; S.I. 2007/3001, **art. 2(1)(r)**

F224 Words in s. 41(5)(i)(ii) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 40(2)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 32

F225 Words in s. 41(5)(i)(ii) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 40(2)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 32

F226 S. 41(5)(i)(iii) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 38(a)**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

F227 S. 41(5)(i)(v)(vi) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 40(3)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 32

F228 S. 41(5)(i)(vii) inserted (9.1.2012) by Crime and Security Act 2010 (c. 17), **ss. 39(4)**, 59(1); S.I. 2011/3016, **art. 2(d)**

F229 S. 41(5)(j)(i)(ii) substituted (28.3.2009 for specified purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 154(b)**; S.I. 2009/812, **art. 3(a)(b)**; S.I. 2009/1167, **art. 4**

F230 Words in s. 41(5)(j)(i) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 16(5)**; S.I. 2007/3001, **art. 2(1)(r)**

F231 S. 41(5)(ja) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 32(2)**, 41(1); S.I. 2007/3001, **art. 2(1)(i)**

F232 S. 41(5)(k) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 38(b)**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

F233 Words in s. 41(5)(l)(i) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 16(6)**; S.I. 2007/3001, **art. 2(1)(r)**

F234 S. 41(6A) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 32(3)**, 41(1); S.I. 2007/3001, **art. 2(1)(i)**

F235 Words in s. 41(10) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 99, 157(1), **Sch. 16 para. 236**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (nnn)(iii)

F236 Words in s. 41(10) substituted (1.4.2001) by 2000 c. 43, **s. 74**, SCh. 7 Pt. II para. 151; S.I. 2001/919, **art. 2(f)(ii)**

F237 Words in s. 41(10) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(4)**; S.I. 2008/504, **art. 3(l)**

F238 Words in s. 41(10) substituted (8.2.2000) by The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90), arts. 1, 3(1), **Sch. 1 para. 35(5)**

F239 Words in s. 41(10) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 88(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F240 Word in s. 41(10) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 88(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F241 Words in s. 41(10) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(d)**

F242 Words in s. 41(10) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 88(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

C25 Ss. 39-42 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), **art. 5(2)**, Sch. 1 (with art. 5(3))

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Commencement Information

I25 S. 41 wholly in force; s. 41 not in force at Royal Assent, see s. 121. in force at 1.8.1998 for the purposes of making appointments under this section and under paragraph 1 of Sch. 2 by S.I. 1998/1883, **art. 2(a)**. s. 41 in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

42 Supplementary provisions.

(1) In the foregoing provisions of this Part and this section—

"chief officer of police" has the meaning given by section 101(1) of the [M29]Police Act 1996;

"local authority" **[**[F243](except in section 39A)**]** means—

(a) in relation to England, a county council, a district council whose district does not form part of an area that has a county council, a London borough council or the Common Council of the City of London;

(b) in relation to Wales, a county council or a county borough council;

[F244] . . . . . .

"youth justice system" means the system of criminal justice in so far as it relates to children and young persons.

(2) For the purposes of those provisions, the Isles of Scilly form part of the county of Cornwall and the Inner Temple and the Middle Temple form part of the City of London.

[[F245](2A) So far as relating to the Isles of Scilly, subsection (2) does not apply for the purposes of section 39A.**]**

(3) In carrying out any of their duties under those provisions, a local authority, a police authority, a **[**[F246]local probation board**]**[F247]a provider of probation services**]**[F248], **[**[F249]a clinical commissioning group**]**[F250]or**]** a **[**[F251]Local Health Board**]**[F252]...**]** shall act in accordance with any guidance given by the Secretary of State.

Textual Amendments

F243 S. 42(1): words in definition of "local authority" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 5(1), **Sch. 2 para. 43(2)** (with Sch. 4 para. 3)

F244 S. 42(1): definition of "police authority" omitted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), ss. 99, 157(1), **Sch. 16 para. 237**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (nnn)(iii)

F245 S. 42(2A) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 5(1), **Sch. 2 para. 43(3)** (with Sch. 4 para. 3)

F246 Words in s. 42(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 151**; S.I. 2001/919, **art. 2(f)(ii)**

F247 Words in s. 42(3) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(4)**; S.I. 2008/504, **art. 3(l)**

F248 Words in s. 42(3) substituted (8.2.2000) by The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90), arts. 1, 3(1), **Sch. 1 para. 35(6)**

F249 Words in s. 42(3) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 89(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

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F250 Word in s. 42(3) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 89(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F251 Words in s. 42(3) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(e)**

F252 Words in s. 42(3) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 89(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

C26 Ss. 39-42 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), **art. 5(2)**, Sch. 1 (with art. 5(3))

Commencement Information

I26 S. 42 wholly in force; S. 42 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M29 1996 c.16.

Time limits etc.

43 Time limits.

(1) In subsection (2) of section 22 (time limits in relation to criminal proceedings) of the [M30]Prosecution of Offences Act 1985 ("the 1985 Act"), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

"(a) be made so as to apply only in relation to proceedings instituted in specified areas, or proceedings of, or against persons of, specified classes or descriptions;

(b) make different provision with respect to proceedings instituted in different areas, or different provision with respect to proceedings of, or against persons of, different classes or descriptions;".

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

"(3) The appropriate court may, at any time before the expiry of a time limit imposed by the regulations, extend, or further extend, that limit; but the court shall not do so unless it is satisfied—

(a) that the need for the extension is due to—

(i) the illness or absence of the accused, a necessary witness, a judge or a magistrate;

(ii) a postponement which is occasioned by the ordering by the court of separate trials in the case of two or more accused or two or more offences; or

(iii) some other good and sufficient cause; and

(b) that the prosecution has acted with all due diligence and expedition."

(3) In subsection (4) of that section, for the words from "the accused" to the end there shall be substituted the words " the appropriate court shall stay the proceedings ".

(4) In subsection (6) of that section—

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(a) for the word "Where" there shall be substituted the words " Subsection (6A) below applies where "; and

(b) for the words from "the overall time limit" to the end there shall be substituted the words " and is accordingly unlawfully at large for any period. "

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

"(6A) The following, namely—

(a) the period for which the person is unlawfully at large; and

(b) such additional period (if any) as the appropriate court may direct, having regard to the disruption of the prosecution occasioned by—

(i) the person's escape or failure to surrender; and

(ii) the length of the period mentioned in paragraph (a) above,

shall be disregarded, so far as the offence in question is concerned, for the purposes of the overall time limit which applies in his case in relation to the stage which the proceedings have reached at the time of the escape or, as the case may be, at the appointed time."

(6) In subsection (7) of that section, after the words "time limit," there shall be inserted the words " or to give a direction under subsection (6A) above, ".

(7) In subsection (8) of that section, after the words "time limit" there shall be inserted the words " , or to give a direction under subsection (6A) above, ".

(8) After subsection (11) of that section there shall be inserted the following subsection—

"(11ZA) For the purposes of this section, proceedings for an offence shall be taken to begin when the accused is charged with the offence or, as the case may be, an information is laid charging him with the offence."

Commencement Information

I27 S. 43 wholly in force at 1.6.1999; S. 43 not in force at Royal Assent see s. 121; S. 43(1) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); s. 43 in force at 1.6.1999 insofar as not already in force by S.I. 1999/1279, **art. 2(a)**

Marginal Citations

M30 1985 c.23.

44 Additional time limits for persons under 18.

F253 . . . . . .

Textual Amendments

F253 S. 44 repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(2), 116(6)(a), **Sch. 8 Pt. 13**

45 Re-institution of stayed proceedings.

After section 22A of the 1985 Act there shall be inserted the following section—

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"22B Re-institution of proceedings stayed under section 22(4) or 22A(5).

(1) This section applies where proceedings for an offence ("the original proceedings") are stayed by a court under section 22(4) or 22A(5) of this Act.

(2) If—

(a) in the case of proceedings conducted by the Director, the Director or a Chief Crown Prosecutor so directs;

(b) in the case of proceedings conducted by the Director of the Serious Fraud Office, the Commissioners of Inland Revenue or the Commissioners of Customs and Excise, that Director or those Commissioners so direct; or

(c) in the case of proceedings not conducted as mentioned in paragraph (a) or (b) above, a person designated for the purpose by the Secretary of State so directs,

fresh proceedings for the offence may be instituted within a period of three months (or such longer period as the court may allow) after the date on which the original proceedings were stayed by the court.

(3) Fresh proceedings shall be instituted as follows—

(a) where the original proceedings were stayed by the Crown Court, by preferring a bill of indictment;

(b) where the original proceedings were stayed by a magistrates' court, by laying an information.

(4) Fresh proceedings may be instituted in accordance with subsections (2) and (3)(b) above notwithstanding anything in section 127(1) of the [M31]Magistrates' Courts Act 1980 (limitation of time).

(5) Where fresh proceedings are instituted, anything done in relation to the original proceedings shall be treated as done in relation to the fresh proceedings if the court so directs or it was done—

(a) by the prosecutor in compliance or purported compliance with section 3, 4, 7 or 9 of the [M32]Criminal Procedure and Investigations Act 1996; or

(b) by the accused in compliance or purported compliance with section 5 or 6 of that Act.

(6) Where a person is convicted of an offence in fresh proceedings under this section, the institution of those proceedings shall not be called into question in any appeal against that conviction."

Marginal Citations

M31 1980 c.43.

M32 1996 c.25.

46 Date of first court appearance in bail cases.

(1) In subsection (3) of section 47 of the 1984 Act (bail after arrest), for the words "subsection (4)" there shall be substituted the words " subsections (3A) and (4) ".

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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(2) After that subsection there shall be inserted the following subsection—

"(3A) Where a custody officer grants bail to a person subject to a duty to appear before a magistrates' court, he shall appoint for the appearance—

(a) a date which is not later than the first sitting of the court after the person is charged with the offence; or

(b) where he is informed by the clerk to the justices for the relevant petty sessions area that the appearance cannot be accommodated until a later date, that later date."

Commencement Information

I28 S. 46 wholly in force at 1.11.1999; S. 46 not in force at Royal Assent see s. 121; S. 46 in force at 30.9.1998 in the areas specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 3(2), **Sch. 2**; S. 46 in force at 1.11.1999 insofar as not already in force by S.I. 1999/2976, **art. 2**

Functions of courts etc.

47 Powers of youth courts.

(1) Where a person who appears or is brought before a youth court charged with an offence subsequently attains the age of 18, the youth court may, at any time—

(a) before the start of the trial; [F254]. . .

[F254](b) . . . . . .

remit the person for trial [F255]. . . to a magistrates' court (other than a youth court) [F256]. . . .

In this subsection "the start of the trial" shall be construed in accordance with section 22(11B) of the 1985 Act.

(2) Where a person is remitted under subsection (1) above—

(a) he shall have no right of appeal against the order of remission;

(b) the remitting court shall adjourn proceedings in relation to the offence; and

(c) subsections (3) and (4) below shall apply.

(3) The following, namely—

(a) section 128 of the 1980 Act; and

(b) all other enactments (whenever passed) relating to remand or the granting of bail in criminal proceedings,

shall have effect in relation to the remitting court's power or duty to remand the person on the adjournment as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the court to which he is being remitted ("the other court").

(4) The other court may deal with the case in any way in which it would have power to deal with it if all proceedings relating to the offence which took place before the remitting court had taken place before the other court.

(5) After subsection (3) of section 10 of the 1980 Act (adjournment of trial) there shall be inserted the following subsection—

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(3A) A youth court shall not be required to adjourn any proceedings for an offence at any stage by reason only of the fact—

(a) that the court commits the accused for trial for another offence; or

(b) that the accused is charged with another offence."

[F257](6) . . . . . .

(7) In subsection (2) of section 47 (procedure in youth courts) of the [M33]Children and Young Persons Act 1933 ("the 1933 Act"), the words from the beginning to "court; and" shall cease to have effect.

Textual Amendments

F254 Word and para. (b) in s. 47(1) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F255 Words in s. 47(1) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F256 Words in s. 47(1) omitted (1.4.2005) by virtue of The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 59**

F257 S. 47(6) 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), Sch (with arts. 3, 4) (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. 3, 4)

Commencement Information

I29 S. 47 wholly in force; S. 47 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M33 1933 c.12.

48 Youth courts: power of stipendiary magistrates to sit alone.

(1) In paragraph 15 of Schedule 2 to the 1933 Act (constitution of youth courts)—

(a) in paragraph (a), after the word "shall", in the first place where it occurs, there shall be inserted the words "either consist of a metropolitan stipendiary magistrate sitting alone or" and the word "shall", in the other place where it occurs, shall cease to have effect;

(b) in paragraph (b), after the words "the chairman" there shall be inserted the words "(where applicable)"; and

(c) in paragraph (c), after the words "the other members" there shall be inserted the words "(where applicable)".

(2) In paragraph 17 of that Schedule, the words "or, if a metropolitan stipendiary magistrate, may sit alone" shall cease to have effect.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I30 S. 48 wholly in force; S. 48 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

49 Powers of magistrates' courts exercisable by single justice etc.

(1) The following powers of a magistrates' court for any area may be exercised by a single justice of the peace for that area, namely—

(a) to extend bail or to impose or vary conditions of bail;

(b) to mark an information as withdrawn;

(c) to dismiss an information, or to discharge an accused in respect of an information, where no evidence is offered by the prosecution;

(d) to make an order for the payment of defence costs out of central funds;

(e) to request a pre-sentence report following a plea of guilty and, for that purpose, to give an indication of the seriousness of the offence;

(f) to request a medical report and, for that purpose, to remand the accused in custody or on bail;

(g) to remit an offender to another court for sentence;

(h) where a person has been granted police bail to appear at a magistrates' court, to appoint an earlier time for his appearance;

(i) to extend, with the consent of the accused, a custody time limit or an overall time limit;

[F258](j) . . . . . .

(k) where an accused has been convicted of an offence, to order him to produce his driving licence;

(l) to give a direction prohibiting the publication of matters disclosed or exempted from disclosure in court;

(m) to give, vary or revoke directions for the conduct of a trial, including directions as to the following matters, namely—

(i) the timetable for the proceedings;

(ii) the attendance of the parties;

(iii) the service of documents (including summaries of any legal arguments relied on by the parties);

(iv) the manner in which evidence is to be given; and

(n) to give, vary or revoke orders for separate or joint trials in the case of two or more accused or two or more informations.

[[F259](2) Criminal Procedure Rules may, subject to subsection (3) below, provide that any of the things which, by virtue of subsection (1) above, are authorised to be done by a single justice of the peace for any area may, subject to any specified restrictions or conditions, be done by a justices' clerk for that area.**]**

(3) **[**[F260]Criminal Procedure Rules**]** which make such provision as is mentioned in subsection (2) above shall not authorise a justices' clerk—

(a) without the consent of the prosecutor and the accused, to extend bail on conditions other than those (if any) previously imposed, or to impose or vary conditions of bail;

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(b) to give an indication of the seriousness of an offence for the purposes of a pre-sentence report;

(c) to remand the accused in custody for the purposes of a medical report or, without the consent of the prosecutor and the accused, to remand the accused on bail for those purposes on conditions other than those (if any) previously imposed;

(d) to give a direction prohibiting the publication of matters disclosed or exempted from disclosure in court; or

(e) without the consent of the parties, to give, vary or revoke orders for separate or joint trials in the case of two or more accused or two or more informations.

(4) Before making any **[**[F261]Criminal Procedure Rules**]** which make such provision as is mentioned in subsection (2) above in relation to any area, the **[**[F262]Criminal Procedure Rule Committee**]** shall consult justices of the peace and justices' clerks for that area.

(5) In this section and section 50 below "justices' clerk" has the same meaning as in section 144 of the 1980 Act.

Textual Amendments

F258 S. 49(1)(j) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with Sch. 2 para. 2)

F259 S. 49(2) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 36(2)** (with art. 2(2))

F260 Words in s. 49(3) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 36(3)** (with art. 2(2))

F261 Words in s. 49(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 36(4)(a)** (with art. 2(2))

F262 Words in s. 49(4) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 36(4)(b)** (with art. 2(2))

Commencement Information

I31 S. 49 wholly in force at 1.11.1999; S. 49 not in force at Royal Assent see s, 121. In force at 31.7.1998 for the purpose of making rules which make such provision as is mentioned in ss.(2) of this section by S.I. 1998/1883, **art. 2(b)**; S. 49 in force at 30.9.1998 in the areas specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 3(2), **Sch. 2**; S. 49 in force at 1.11.1999 insofar as not already in force by S.I. 1999/2976, **art. 2**

50 Early administrative hearings.

(1) Where a person ("the accused") has been charged with an offence at a police station, the magistrates' court before whom he appears or is brought for the first time in relation to the charge may, [F263]..., consist of a single justice.

[[F264](2) At a hearing conducted by a single justice under this section **[**[F265]—

(a)**]** the accused shall be asked whether he wishes **[**[F266]to be provided with representation for the purposes of the proceedings under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and

(b) if he indicates that he does, the necessary arrangements must be made for him to apply for it and, where appropriate, obtain it.**]**

[F267](2A) . . . . . .**]**

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(3) At such a hearing the single justice—

(a) may exercise, subject to subsection (2) above, such of his powers as a single justice as he thinks fit; and

(b) on adjourning the hearing, may remand the accused in custody or on bail.

(4) This section applies in relation to a justices' clerk as it applies in relation to a single justice; but nothing in subsection (3)(b) above authorises such a clerk to remand the accused in custody or, without the consent of the prosecutor and the accused, to remand the accused on bail on conditions other than those (if any) previously imposed.

[[F268](4A) A hearing conducted by a single justice under this section may be—

(a) adjourned to enable the decision mentioned in subsection (2A) above to be taken, and

(b) subsequently resumed by a single justice.**]**

[F269](5) . . . . . .

Textual Amendments

F263 Words in s. 50(1) 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. 16, **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), Sch. (with arts. 3, 4) (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. 3, 4)

F264 S. 50(2)(2A) substituted for s. 50(2) (2.10.2006) by The Criminal Defence Service (Representation Orders and Consequential Amendment) Regulations 2006) (S.I. 2006/2493), {reg. 8(2)}

F265 Words in s. 50(2) inserted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 47(2)(a)**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

F266 Words in s. 50(2) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 47(2)(b)**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

F267 S. 50(2A) omitted (1.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 47(3)**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

F268 S. 50(4A) inserted (2.10.2006) by The Criminal Defence Service (Representation Orders and Consequential Amendment) Regulations 2006) (S.I. 2006/2493), {reg. 8(3)}

F269 S. 50(5) repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with Sch. 2 para. 2)

Modifications etc. (not altering text)

C27 S. 50 extended (1.11.1999) by S.I. 1999/2784, **rule 3(2)**

Commencement Information

I32 S. 50 wholly in force; S. 50 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F270 50A Order of consideration for either-way offences

(1) Where an adult appears or is brought before a magistrates' court charged with an either-way offence (the "relevant offence"), the court shall proceed in the manner described in this section.

(2) If notice is given in respect of the relevant offence under section 51B or 51C below, the court shall deal with the offence as provided in section 51 below.

(3) Otherwise—

(a) if the adult (or another adult with whom the adult is charged jointly with the relevant offence) is or has been sent to the Crown Court for trial for an offence under section 51(2)(a) or 51(2)(c) below—

(i) the court shall first consider the relevant offence under subsection (3), (4), (5) or, as the case may be, (6) of section 51 below and, where applicable, deal with it under that subsection;

(ii) if the adult is not sent to the Crown Court for trial for the relevant offence by virtue of sub-paragraph (i) above, the court shall then proceed to deal with the relevant offence in accordance with sections 17A to 23 of the 1980 Act;

(b) in all other cases—

(i) the court shall first consider the relevant offence under sections 17A to 20 (excluding subsections (8) and (9) of section 20) of the 1980 Act;

(ii) if, by virtue of sub-paragraph (i) above, the court would be required to proceed in relation to the offence as mentioned in section 17A(6), 17B(2)(c) or 20(7) of that Act (indication of guilty plea), it shall proceed as so required (and, accordingly, shall not consider the offence under section 51 or 51A below);

(iii) if sub-paragraph (ii) above does not apply—

(a) the court shall consider the relevant offence under sections 51 and 51A below and, where applicable, deal with it under the relevant section;

(b) if the adult is not sent to the Crown Court for trial for the relevant offence by virtue of paragraph (a) of this sub-paragraph, the court shall then proceed to deal with the relevant offence as contemplated by section 20(9) or, as the case may be, section 21 of the 1980 Act.

(4) Subsection (3) above is subject to any requirement to proceed as mentioned in subsections (2) or (6)(a) of section 22 of the 1980 Act (certain offences where value involved is small).

(5) Nothing in this section shall prevent the court from committing the adult to the Crown Court for sentence pursuant to any enactment, if he is convicted of the relevant offence.]

Textual Amendments

F270 S. 50A inserted (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. 17**; 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); S.I.

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2012/2574, art. 2(2)(3), Sch. (with arts. 3, 4) (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. 3, 4)

[F271 51 Sending cases to the Crown Court: adults

(1) Where an adult appears or is brought before a magistrates' court ("the court") charged with an offence and any of the conditions mentioned in subsection (2) below is satisfied, the court shall send him forthwith to the Crown Court for trial for the offence.

(2) Those conditions are—

(a) that the offence is an offence triable only on indictment other than one in respect of which notice has been given under section 51B or 51C below;

(b) that the offence is an either-way offence and the court is required under section 20(9)(b), 21, [F272 22A(2)(b),] 23(4)(b) or (5) or 25(2D) of the Magistrates' Courts Act 1980 to proceed in relation to the offence in accordance with subsection (1) above;

(c) that notice is given to the court under section 51B or 51C below in respect of the offence.

(3) Where the court sends an adult for trial under subsection (1) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged and which—

(a) (if it is an either-way offence) appears to the court to be related to the offence mentioned in subsection (1) above; or

(b) (if it is a summary offence) appears to the court to be related to the offence mentioned in subsection (1) above or to the either-way offence, and which fulfils the requisite condition (as defined in subsection (11) below).

(4) Where an adult who has been sent for trial under subsection (1) above subsequently appears or is brought before a magistrates' court charged with an either-way or summary offence which—

(a) appears to the court to be related to the offence mentioned in subsection (1) above; and

(b) (in the case of a summary offence) fulfils the requisite condition,

the court may send him forthwith to the Crown Court for trial for the either-way or summary offence.

(5) Where—

(a) the court sends an adult ("A") for trial under subsection (1) or (3) above;

(b) another adult appears or is brought before the court on the same or a subsequent occasion charged jointly with A with an either-way offence; and

(c) that offence appears to the court to be related to an offence for which A was sent for trial under subsection (1) or (3) above,

the court shall where it is the same occasion, and may where it is a subsequent occasion, send the other adult forthwith to the Crown Court for trial for the either-way offence.

(6) Where the court sends an adult for trial under subsection (5) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged and which—

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) (if it is an either-way offence) appears to the court to be related to the offence for which he is sent for trial; and

(b) (if it is a summary offence) appears to the court to be related to the offence for which he is sent for trial or to the either-way offence, and which fulfils the requisite condition.

(7) Where—

(a) the court sends an adult ("A") for trial under subsection (1), (3) or (5) above; and

(b) a child or young person appears or is brought before the court on the same or a subsequent occasion charged jointly with A with an indictable offence for which A is sent for trial under subsection (1), (3) or (5) above, or an indictable offence which appears to the court to be related to that offence,

the court shall, if it considers it necessary in the interests of justice to do so, send the child or young person forthwith to the Crown Court for trial for the indictable offence.

(8) Where the court sends a child or young person for trial under subsection (7) above, it may at the same time send him to the Crown Court for trial for any indictable or summary offence with which he is charged and which—

(a) (if it is an indictable offence) appears to the court to be related to the offence for which he is sent for trial; and

(b) (if it is a summary offence) appears to the court to be related to the offence for which he is sent for trial or to the indictable offence, and which fulfils the requisite condition.

(9) Subsections (7) and (8) above are subject to sections 24A and 24B of the Magistrates' Courts Act 1980 (which provide for certain cases involving children and young persons to be tried summarily).

(10) The trial of the information charging any summary offence for which a person is sent for trial under this section shall be treated as if the court had adjourned it under section 10 of the 1980 Act and had not fixed the time and place for its resumption.

(11) A summary offence fulfils the requisite condition if it is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.

(12) In the case of an adult charged with an offence—

(a) if the offence satisfies paragraph (c) of subsection (2) above, the offence shall be dealt with under subsection (1) above and not under any other provision of this section or section 51A below;

(b) subject to paragraph (a) above, if the offence is one in respect of which the court is required to, or would decide to, send the adult to the Crown Court under—

(i) subsection (5) above; or

(ii) subsection (6) of section 51A below,

the offence shall be dealt with under that subsection and not under any other provision of this section or section 51A below.

(13) The functions of a magistrates' court under this section, and its related functions under section 51D below, may be discharged by a single justice.**]**

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F271 Ss. 51-51E substituted for s. 51 (4.4.2005 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. 18**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 29(a)** (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, **art. 2**; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, **Sch. 28 Pt. 2**; S.I. 2008/1586, Sch. 1 paras. 48(s), **50(2)(d)**; (30.11.2009) by S.I. 2009/3111, **art. 2**; (3.12.2012) by S.I. 2012/2905, **art. 4**; (3.12.2012) by 2012 c. 10, **Sch. 14 para. 17**; S.I. 2012/2906, **art. 2(l)**); 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**); S.I. 2012/2574, art. 2(2)(3)(c), **Sch.** (with arts. 3, 4) (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. 3, 4)

F272 Word in s. 51(2)(b) inserted (12.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 52(2)**, 95(1)

[F273 51A Sending cases to the Crown Court: children and young persons

(1) This section is subject to sections 24A and 24B of the Magistrates' Courts Act 1980 (which provide for certain offences involving children or young persons to be tried summarily).

(2) Where a child or young person appears or is brought before a magistrates' court ("the court") charged with an offence and any of the conditions mentioned in subsection (3) below is satisfied, the court shall send him forthwith to the Crown Court for trial for the offence.

(3) Those conditions are—

(a) that the offence falls within subsection (12) below;

(b) that the offence is such as is mentioned in subsection (1) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (other than one mentioned in paragraph (d) below in relation to which it appears to the court as mentioned there) and the court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of subsection (3) of that section;

(c) that notice is given to the court under section 51B or 51C below in respect of the offence;

(d) that the offence is a specified offence (within the meaning of section 224 of the Criminal Justice Act 2003) and it appears to the court that if he is found guilty of the offence the criteria for the imposition of a sentence under section [F274 226B] of that Act would be met.

(4) Where the court sends a child or young person for trial under subsection (2) above, it may at the same time send him to the Crown Court for trial for any indictable or summary offence with which he is charged and which—

(a) (if it is an indictable offence) appears to the court to be related to the offence mentioned in subsection (2) above; or

(b) (if it is a summary offence) appears to the court to be related to the offence mentioned in subsection (2) above or to the indictable offence, and which fulfils the requisite condition (as defined in subsection (9) below).

(5) Where a child or young person who has been sent for trial under subsection (2) above subsequently appears or is brought before a magistrates' court charged with an indictable or summary offence which—

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(a) appears to the court to be related to the offence mentioned in subsection (2) above; and

(b) (in the case of a summary offence) fulfils the requisite condition,

the court may send him forthwith to the Crown Court for trial for the indictable or summary offence.

(6) Where—

(a) the court sends a child or young person ("C") for trial under subsection (2) or (4) above; and

(b) an adult appears or is brought before the court on the same or a subsequent occasion charged jointly with C with an either-way offence for which C is sent for trial under subsection (2) or (4) above, or an either-way offence which appears to the court to be related to that offence,

the court shall where it is the same occasion, and may where it is a subsequent occasion, send the adult forthwith to the Crown Court for trial for the either-way offence.

(7) Where the court sends an adult for trial under subsection (6) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged and which—

(a) (if it is an either-way offence) appears to the court to be related to the offence for which he was sent for trial; and

(b) (if it is a summary offence) appears to the court to be related to the offence for which he was sent for trial or to the either-way offence, and which fulfils the requisite condition.

(8) The trial of the information charging any summary offence for which a person is sent for trial under this section shall be treated as if the court had adjourned it under section 10 of the 1980 Act and had not fixed the time and place for its resumption.

(9) A summary offence fulfils the requisite condition if it is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.

(10) In the case of a child or young person charged with an offence—

(a) if the offence satisfies any of the conditions in subsection (3) above, the offence shall be dealt with under subsection (2) above and not under any other provision of this section or section 51 above;

(b) subject to paragraph (a) above, if the offence is one in respect of which the requirements of subsection (7) of section 51 above for sending the child or young person to the Crown Court are satisfied, the offence shall be dealt with under that subsection and not under any other provision of this section or section 51 above.

(11) The functions of a magistrates' court under this section, and its related functions under section 51D below, may be discharged by a single justice.

(12) An offence falls within this subsection if—

(a) it is an offence of homicide;[F275]. . .

(b) each of the requirements of section 51A(1) of the Firearms Act 1968 would be satisfied with respect to—

(i) the offence; and

(ii) the person charged with it,

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if he were convicted of the offence; **[**[F276]or

(c) section 29(3) of Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon) would apply if he were convicted of the offence.**]**

Textual Amendments

F273 Ss. 51-51E substituted for s. 51 (4.4.2005 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. 18; S.I. 2005/950, art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l)); 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F274 Word in s. 51A(3)(d) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (2012 c. 10), ss. 151(1), **Sch. 21 para. 6**; S.I. 2012/2906, **art. 2(s)** (with arts. 3-7)

F275 Word at the end of s. 51A(12)(a) repealed (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49. 65, 66(2), Sch. 1 para. 5, {Sch. 5}; S.I. 2007/858, **art. 2(g)(m)(n)(viii)**

F276 S. 51A(12)(c) and word inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 66(2), **Sch. 1 para. 5**; S.I. 2007/858, **art. 2(g)**

51B Notices in serious or complex fraud cases

(1) A notice may be given by a designated authority under this section in respect of an indictable offence if the authority is of the opinion that the evidence of the offence charged—

(a) is sufficient for the person charged to be put on trial for the offence; and

(b) reveals a case of fraud of such seriousness or complexity that it is appropriate that the management of the case should without delay be taken over by the Crown Court.

(2) That opinion must be certified by the designated authority in the notice.

(3) The notice must also specify the proposed place of trial, and in selecting that place the designated authority must have regard to the same matters as are specified in paragraphs (a) to (c) of section 51D(4) below.

(4) A notice under this section must be given to the magistrates' court at which the person charged appears or before which he is brought.

(5) Such a notice must be given to the magistrates' court before any summary trial begins.

(6) The effect of such a notice is that the functions of the magistrates' court cease in relation to the case, except—

(a) for the purposes of section 51D below;

(b) as provided by **[**[F277]regulations under section 19 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012**]**; and

(c) as provided by section 52 below.

(7) The functions of a designated authority under this section may be exercised by an officer of the authority acting on behalf of the authority.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8) A decision to give a notice under this section shall not be subject to appeal or liable to be questioned in any court (whether a magistrates' court or not).

(9) In this section "designated authority" means—

(a) the Director of Public Prosecutions;

(b) the Director of the Serious Fraud Office;

F278(c) . . . . . .

(e) the Secretary of State.

Textual Amendments

F273 Ss. 51-51E substituted for s. 51 (4.4.2005 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. 18; S.I. 2005/950, art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l)); 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F277 Words in s. 51B(6)(b) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 48**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

F278 S. 51B(9)(c) omitted (27.3.2014) by virtue of The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 2 para. 15**

51C Notices in certain cases involving children

(1) A notice may be given by the Director of Public Prosecutions under this section in respect of an offence falling within subsection (3) below if he is of the opinion—

(a) that the evidence of the offence would be sufficient for the person charged to be put on trial for the offence;

(b) that a child would be called as a witness at the trial; and

(c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court.

(2) That opinion must be certified by the Director of Public Prosecutions in the notice.

(3) This subsection applies to an offence—

(a) which involves an assault on, or injury or a threat of injury to, a person;

(b) under section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16);

(c) under the Sexual Offences Act 1956, the Protection of Children Act 1978 or the Sexual Offences Act 2003;

(d) of kidnapping or false imprisonment, or an offence under section 1 or 2 of the Child Abduction Act 1984;

F279[(da) under section 1 or 2 of the Modern Slavery Act 2015;]

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(e) which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a), (b), (c)**[**[F280], (d) or (da)**]** above.

(4) Subsections (4), (5) and (6) of section 51B above apply for the purposes of this section as they apply for the purposes of that.

(5) The functions of the Director of Public Prosecutions under this section may be exercised by an officer acting on behalf of the Director.

(6) A decision to give a notice under this section shall not be subject to appeal or liable to be questioned in any court (whether a magistrates' court or not).

(7) In this section "child" means—

(a) a person who is under the age of 17; or

(b) any person of whom a video recording (as defined in section 63(1) of the Youth Justice and Criminal Evidence Act 1999) was made when he was under the age of 17 with a view to its admission as his evidence in chief in the trial referred to in subsection (1) above.

Textual Amendments

F273 Ss. 51-51E substituted for s. 51 (4.4.2005 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. 18; S.I. 2005/950, art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l)); 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F279 S. 51C(3)(da) inserted (17.3.2016) by The Modern Slavery Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/244), regs. 1(1), **9(a)**

F280 Words in s. 51C(3)(e) substituted (17.3.2016) by The Modern Slavery Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/244), regs. 1(1), **9(b)**

Modifications etc. (not altering text)

C28 S. 51C(3)(e) amended (1.10.2008) by Serious Crime Act 2007 (c. 27), **ss. 63(1)**, 94(1), **Sch. 6 para. 36**; S.I. 2008/2504, **art. 2(a)**

51D Notice of offence and place of trial

(1) The court shall specify in a notice—

(a) the offence or offences for which a person is sent for trial under section 51 or 51A above; and

(b) the place at which he is to be tried (which, if a notice has been given under section 51B above, must be the place specified in that notice).

(2) A copy of the notice shall be served on the accused and given to the Crown Court sitting at that place.

(3) In a case where a person is sent for trial under section 51 or 51A above for more than one offence, the court shall specify in that notice, for each offence—

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(a) the subsection under which the person is so sent; and
(b) if applicable, the offence to which that offence appears to the court to be related.

(4) Where the court selects the place of trial for the purposes of subsection (1) above, it shall have regard to—
(a) the convenience of the defence, the prosecution and the witnesses;
(b) the desirability of expediting the trial; and
(c) any direction given by or on behalf of the Lord Chief Justice with the concurrence of the Lord Chancellor under section 75(1) of the Supreme Court Act 1981.

Textual Amendments

F273 Ss. 51-51E substituted for s. 51 (4.4.2005 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. 18; S.I. 2005/950, art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l)); 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

51E Interpretation of sections 50A to 51D

For the purposes of sections 50A to 51D above—
(a) "adult" means a person aged 18 or over, and references to an adult include a corporation;
(b) "either-way offence" means an offence triable either way;
(c) an either-way offence is related to an indictable offence if the charge for the either-way offence could be joined in the same indictment as the charge for the indictable offence;
(d) a summary offence is related to an indictable offence if it arises out of circumstances which are the same as or connected with those giving rise to the indictable offence.**]**

Textual Amendments

F273 Ss. 51-51E substituted for s. 51 (4.4.2005 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. 18; S.I. 2005/950, art. 2(1), Sch. 1 para. 29(a) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l)); 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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52 Provisions supplementing section 51 [F281 and 51A].

(1) Subject to section 4 of the M34Bail Act 1976, section 41 of the 1980 Act [F282, section 115(1) of the Coroners and Justice Act 2009], regulations under section 22 of the 1985 Act and section 25 of the 1994 Act, the court may send a person for trial under section 51 [F283or 51A] above—

(a) in custody, that is to say, by committing him to custody there to be safely kept until delivered in due course of law; or

(b) on bail in accordance with the M35Bail Act 1976, that is to say, by directing him to appear before the Crown Court for trial.

(2) Where—

(a) the person's release on bail under subsection (1)(b) above is conditional on his providing one or more sureties; and

(b) in accordance with subsection (3) of section 8 of the M36Bail Act 1976, the court fixes the amount in which a surety is to be bound with a view to his entering into his recognisance subsequently in accordance with subsections (4) and (5) or (6) of that section,

the court shall in the meantime make an order such as is mentioned in subsection (1)(a) above.

(3) The court shall treat as an indictable offence for the purposes of section 51 [F284or 51A] above an offence which is mentioned in the first column of Schedule 2 to the 1980 Act (offences for which the value involved is relevant to the mode of trial) unless it is clear to the court, having regard to any representations made by the prosecutor or the accused, that the value involved does not exceed the relevant sum.

(4) In subsection (3) above "the value involved" and "the relevant sum" have the same meanings as in section 22 of the 1980 Act (certain offences triable either way to be tried summarily if value involved is small).

(5) A magistrates' court may adjourn any proceedings under section 51 [F285or 51A] above, and if it does so shall remand the accused.

(6) Schedule 3 to this Act (which makes further provision in relation to persons sent to the Crown Court for trial under section 51 [F286or 51A] above) shall have effect.

Textual Amendments

F281 Words in s. 52 heading inserted (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. 69(e)**; S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F282 Words in s. 52(1) inserted (1.2.2010) by Coroners and Justice Act 2009 (c. 25), ss. 177(1), 182(5), **Sch. 21 para. 78**; S.I. 2010/145, **art. 2(2)**, Sch. para. 25(b)

F283 Words in s. 52(1) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 69(a)**; S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; 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); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F284 Words in s. 52(3) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para.**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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69(b); S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; 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); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F285 Words in s. 52(5) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 69(c)**; S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; 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); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

F286 Words in s. 52(6) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 69(d)**; S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; 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); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

Commencement Information

I33 S. 52 wholly in force; S. 52 not in force at Royal Assent see s. 121. S. 52(6) in force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); S. 52 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; S. 52 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (with transitional provisions in art. 3)

Marginal Citations

M34 1976 c.63.
M35 1976 c.63.
M36 1976 c.63.

[F287 52A Restrictions on reporting

(1) Except as provided by this section, it shall not be lawful—
  (a) to publish in the United Kingdom a written report of any allocation or sending proceedings in England and Wales; or
  (b) to include in a relevant programme for reception in the United Kingdom a report of any such proceedings,

if (in either case) the report contains any matter other than that permitted by this section.

(2) Subject to subsections (3) and (4) below, a magistrates' court may, with reference to any allocation or sending proceedings, order that subsection (1) above shall not apply to reports of those proceedings.

(3) Where there is only one accused and he objects to the making of an order under subsection (2) above, the court shall make the order if, and only if, it is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.

(4) Where in the case of two or more accused one of them objects to the making of an order under subsection (2) above, the court shall make the order if, and only if, it is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.

(5) An order under subsection (2) above shall not apply to reports of proceedings under subsection (3) or (4) above, but any decision of the court to make or not to make such an order may be contained in reports published or included in a relevant programme before the time authorised by subsection (6) below.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) It shall not be unlawful under this section to publish or include in a relevant programme a report of allocation or sending proceedings containing any matter other than that permitted by subsection (7) below—

(a) where, in relation to the accused (or all of them, if there are more than one), the magistrates' court is required to proceed as mentioned in section 20(7) of the 1980 Act, after the court is so required;

(b) where, in relation to the accused (or any of them, if there are more than one), the court proceeds other than as mentioned there, after conclusion of his trial or, as the case may be, the trial of the last to be tried.

(7) The following matters may be contained in a report of allocation or sending proceedings published or included in a relevant programme without an order under subsection (2) above before the time authorised by subsection (6) above—

(a) the identity of the court and the name of the justice or justices;

(b) the name, age, home address and occupation of the accused;

(c) in the case of an accused charged with an offence in respect of which notice has been given to the court under section 51B above, any relevant business information;

(d) the offence or offences, or a summary of them, with which the accused is or are charged;

(e) the names of counsel and solicitors engaged in the proceedings;

(f) where the proceedings are adjourned, the date and place to which they are adjourned;

(g) the arrangements as to bail;

[[F288](h) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.**]**

(8) The addresses that may be published or included in a relevant programme under subsection (7) above are addresses—

(a) at any relevant time; and

(b) at the time of their publication or inclusion in a relevant programme.

(9) The following is relevant business information for the purposes of subsection (7) above—

(a) any address used by the accused for carrying on a business on his own account;

(b) the name of any business which he was carrying on on his own account at any relevant time;

(c) the name of any firm in which he was a partner at any relevant time or by which he was engaged at any such time;

(d) the address of any such firm;

(e) the name of any company of which he was a director at any relevant time or by which he was otherwise engaged at any such time;

(f) the address of the registered or principal office of any such company;

(g) any working address of the accused in his capacity as a person engaged by any such company;

and here "engaged" means engaged under a contract of service or a contract for services.

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(10) Subsection (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports of court proceedings.

(11) In this section—

"allocation or sending proceedings" means, in relation to an information charging an indictable offence—

(a) any proceedings in the magistrates' court at which matters are considered under any of the following provisions—

(i) sections 19 to 23 of the 1980 Act;

(ii) section 51, 51A or 52 above;

(b) any proceedings in the magistrates' court before the court proceeds to consider any matter mentioned in paragraph (a) above; and

(c) any proceedings in the magistrates' court at which an application under section 25(2) of the 1980 Act is considered;

"publish", in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;

"relevant programme" means a programme included in a programme service (within the meaning of the Broadcasting Act 1990);

"relevant time" means a time when events giving rise to the charges to which the proceedings relate occurred.

Textual Amendments

F287 Ss. 52A, 52B inserted (18.6.2012 for E.W.S. except for the insertion of s. 52B(4)) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 19(1)**; S.I. 2012/1320, art. 3(d)(iii)

F288 S. 52A(7)(h) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 49**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

52B Offences in connection with reporting

(1) If a report is published or included in a relevant programme in contravention of section 52A above, each of the following persons is guilty of an offence—

(a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;

(c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of the editor of a newspaper.

(2) 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.

(3) Proceedings for an offence under this section shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney General.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Proceedings for an offence under this section shall not, in Northern Ireland, be instituted otherwise than by or with the consent of the Attorney General for Northern Ireland.

(5) Subsection (11) of section 52A above applies for the purposes of this section as it applies for the purposes of that section.**]**

Textual Amendments

F287 Ss. 52A, 52B inserted (18.6.2012 for E.W.S. except for the insertion of s. 52B(4)) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 19(1)**; S.I. 2012/1320, art. 3(d)(iii)

Miscellaneous

53 Crown Prosecution Service: powers of non-legal staff.

For section 7A of the 1985 Act there shall be substituted the following section—

"**7A Powers of non-legal staff.**

(1) The Director may designate, for the purposes of this section, members of the staff of the Crown Prosecution Service who are not Crown Prosecutors.

(2) Subject to such exceptions (if any) as may be specified in the designation, a person so designated shall have such of the following as may be so specified, namely—

(a) the powers and rights of audience of a Crown Prosecutor in relation to—

(i) applications for, or relating to, bail in criminal proceedings;

(ii) the conduct of criminal proceedings in magistrates' courts other than trials;

(b) the powers of such a Prosecutor in relation to the conduct of criminal proceedings not falling within paragraph (a)(ii) above.

(3) A person so designated shall exercise any such powers subject to instructions given to him by the Director.

(4) Any such instructions may be given so as to apply generally.

(5) For the purposes of this section—

(a) "bail in criminal proceedings" has the same meaning as it would have in the [M37]Bail Act 1976 by virtue of the definition in section 1 of that Act if in that section "offence" did not include an offence to which subsection (6) below applies;

(b) "criminal proceedings" does not include proceedings for an offence to which subsection (6) below applies; and

(c) a trial begins with the opening of the prosecution case after the entry of a plea of not guilty and ends with the conviction or acquittal of the accused.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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(6) This subsection applies to an offence if it is triable only on indictment, or is an offence—

(a) for which the accused has elected to be tried by a jury;

(b) which a magistrates' court has decided is more suitable to be so tried; or

(c) in respect of which a notice of transfer has been given under section 4 of the [M38]Criminal Justice Act 1987 or section 53 of the [M39]Criminal Justice Act 1991.

(7) Details of the following for any year, namely—

(a) the criteria applied by the Director in determining whether to designate persons under this section;

(b) the training undergone by persons so designated; and

(c) any general instructions given by the Director under subsection (4) above,

shall be set out in the Director's report under section 9 of this Act for that year."

Commencement Information

I34 S. 53 wholly in force; S. 53 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M37 1976 c.63.

M38 1987 c.38.

M39 1991 c.53.

54 Bail: increased powers to require security or impose conditions.

(1) In subsection (5) of section 3 of the [M40]Bail Act 1976 (general provisions as to bail), the words "If it appears that he is unlikely to remain in Great Britain until the time appointed for him to surrender to custody" shall cease to have effect.

(2) In subsection (6) of that section, after paragraph (d) there shall be inserted the following paragraph—

"(e) before the time appointed for him to surrender to custody, he attends an interview with an authorised advocate or authorised litigator, as defined by section 119(1) of the [M41]Courts and Legal Services Act 1990;".

(3) In subsection (2) of section 3A of that Act (conditions of bail in the case of police bail), for the words "paragraph (d)" there shall be substituted the words " paragraph (d) or (e) ".

Commencement Information

I35 S. 54 wholly in force; S. 54 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in art. 5-8)

Marginal Citations

M40 1976 c.63.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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M41 1990 c.41.

55 Forfeiture of recognizances.

For subsections (1) and (2) of section 120 of the 1980 Act (forfeiture of recognizances) there shall be substituted the following subsections—

"(1) This section applies where—

(a) a recognizance to keep the peace or to be of good behaviour has been entered into before a magistrates' court; or

(b) any recognizance is conditioned for the appearance of a person before a magistrates' court, or for his doing any other thing connected with a proceeding before a magistrates' court.

(1A) If, in the case of a recognizance which is conditioned for the appearance of an accused before a magistrates' court, the accused fails to appear in accordance with the condition, the court shall—

(a) declare the recognizance to be forfeited;

(b) issue a summons directed to each person bound by the recognizance as surety, requiring him to appear before the court on a date specified in the summons to show cause why he should not be adjudged to pay the sum in which he is bound;

and on that date the court may proceed in the absence of any surety if it is satisfied that he has been served with the summons.

(2) If, in any other case falling within subsection (1) above, the recognizance appears to the magistrates' court to be forfeited, the court may—

(a) declare the recognizance to be forfeited; and

(b) adjudge each person bound by it, whether as principal or surety, to pay the sum in which he is bound;

but in a case falling within subsection (1)(a) above, the court shall not declare the recognizance to be forfeited except by order made on complaint."

Commencement Information

I36 S. 55 wholly in force; S. 55 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

56 Bail: restrictions in certain cases of homicide or rape.

In subsection (1) of section 25 of the 1994 Act (no bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences), for the words "shall not be granted bail in those proceedings" there shall be substituted the words " shall be granted bail in those proceedings only if the court or, as the case may be, the constable considering the grant of bail is satisfied that there are exceptional circumstances which justify it ".

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I37 S. 56 wholly in force; S. 56 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

57 Use of live television links at preliminary hearings.

[F289] . . . . . .

Textual Amendments

F289 Pt. 3A (ss. 57A-57E) substituted for s. 57 (15.1.2007 except in relation to s. 57C, and so far as not already in force in relation to specified areas at 1.4.2007, 14.11.2008 and 3.10.2011, otherwise 8.10.2012) by Police and Justice Act 2006 (c. 48), **ss. 45**, 53(1); S.I. 2006/3364, **art 2(g)** (with art. 4); S.I. 2007/709, **art. 3(n)**; S.I. 2008/2785, **art. 2**; S.I. 2011/2144, **art. 2**; S.I. 2012/2373, **art. 2(a)**

[F290][F291]PART 3A

LIVE LINKS FOR ACCUSED'S ATTENDANCE AT CERTAIN PRELIMINARY [F292], SENTENCING AND OTHER] HEARINGS

Textual Amendments

F290 Pt. 3A substituted (15.1.2007 for specified purposes, 1.4.2007 for specified purposes, 14.11.2008 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Police and Justice Act 2006 (c. 48), ss. 45, 53(1); S.I. 2006/3364, art. 2(g) (with art. 4); S.I. 2007/709, art. 3(n) (with art. 6); S.I. 2008/2785, art. 2; S.I. 2011/2144, art. 2(1)(a); S.I. 2012/2373, art. 2(a)

F291 Pt. 3A (ss. 57A-57E) substituted for s. 57 (15.1.2007 for specified purposes, 1.4.2007 for specified purposes, 14.11.2008 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Police and Justice Act 2006 (c. 48), **ss. 45**, 53(1); S.I. 2006/3364, art. 2(g) (with art. 4); S.I. 2007/709, art. 3(n) (with art. 6); S.I. 2008/2785, art. 2; S.I. 2011/2144, art. 2(1)(a); S.I. 2012/2373, art. 2(a)

F292 Words in Pt. 3A title substituted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(3)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

57A Introductory

(1) This Part—

(a) applies to preliminary hearings and sentencing hearings in the course of proceedings for an offence [F293and enforcement hearings relating to confiscation orders]; and

(b) enables the court in the circumstances provided for in sections 57B, 57C [F294, 57E and 57F] to direct the use of a live link for securing the accused's attendance at a hearing to which this Part applies.

(2) The accused is to be treated as present in court when, by virtue of a live link direction under this Part, he attends a hearing through a live link.

(3) In this Part—

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[[F295]"confiscation order" means an order made under—

(a) section 71 of the Criminal Justice Act 1988;

(b) section 2 of the Drug Trafficking Act 1994; or

(c) section 6 of the Proceeds of Crime Act 2002;", and**]**

"custody"—

(a) includes local authority accommodation **[**[F296] or youth detention accommodation to which a person is remanded under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012**]** ; but

(b) does not include police detention;

[[F297]"enforcement hearing" means a hearing under section 82 of the Magistrates' Courts Act 1980 to consider the issuing of a warrant of committal or to inquire into a person's means;**]**

"live link" means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during a hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);

"police detention" has the meaning given by section 118(2) of the Police and Criminal Evidence Act 1984;

"preliminary hearing" means a hearing in the proceedings held before the start of the trial (within the meaning of subsection (11A) or (11B) of section 22 of the 1985 Act) including, in the case of proceedings in the Crown Court, a preparatory hearing held under—

(a) section 7 of the Criminal Justice Act 1987 (cases of serious or complex fraud); or

(b) section 29 of the Criminal Procedure and Investigations Act 1996 (other serious, complex or lengthy cases);

"sentencing hearing" means any hearing following conviction which is held for the purpose of—

(a) proceedings relating to the giving or rescinding of a direction under section 57E;

(b) proceedings (in a magistrates' court) relating to committal to the Crown Court for sentencing; or

(c) sentencing the offender or determining how the court should deal with him in respect of the offence.

Textual Amendments

F293 Words in s. 57A(1)(a) inserted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(2)(a)(i)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

F294 Words in s. 57A(1)(b) substituted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(2)(a)(ii)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

F295 S. 57A(3): definition of "confiscation order" inserted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(2)(b)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

F296 Words in s. 57A(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 39**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

F297 S. 57A(3): definition of "enforcement hearing" inserted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(2)(b)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

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57B Use of live link at preliminary hearings where accused is in custody

(1) This section applies in relation to a preliminary hearing in a magistrates' court or the Crown Court.

(2) Where it appears to the court before which the preliminary hearing is to take place that the accused is likely to be held in custody during the hearing, the court may give a live link direction under this section in relation to the attendance of the accused at the hearing.

(3) A live link direction under this section is a direction requiring the accused, if he is being held in custody during the hearing, to attend it through a live link from the place at which he is being held.

(4) If a hearing takes place in relation to the giving or rescinding of such a direction, the court may require or permit a person attending the hearing to do so through a live link.

(5) The court shall not give or rescind such a direction (whether at a hearing or otherwise) unless the parties to the proceedings have been given the opportunity to make representations.

(6) If in a case where it has power to do so a magistrates' court decides not to give a live link direction under this section, it must—

(a) state in open court its reasons for not doing so; and

(b) cause those reasons to be entered in the register of its proceedings.

[F298] **[** The following functions of a magistrates' court under this section may be discharged (7) by a single justice—

(a) giving a live link direction under this section;

(b) rescinding a live link direction before a preliminary hearing begins; and

(c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).**]**

Textual Amendments

F298 S. 57B(7) added (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 106(2)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(a)(i)** (with art. 4(1))

57C [F290]Use of live link at preliminary hearings where accused is at police station

(1) This section applies in relation to a preliminary hearing in a magistrates' court.

(2) Where subsection (3) or (4) applies to the accused, the court may give a live link direction in relation to his attendance at the preliminary hearing.

(3) This subsection applies to the accused if—

(a) he is in police detention at a police station in connection with the offence; and

(b) it appears to the court that he is likely to remain at that station in police detention until the beginning of the preliminary hearing.

(4) This subsection applies to the accused if he is at a police station in answer to live link bail in connection with the offence.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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(5) A live link direction under this section is a direction requiring the accused to attend the preliminary hearing through a live link from the police station.

(6) But a direction given in relation to an accused to whom subsection (3) applies has no effect if he does not remain in police detention at the police station until the beginning of the preliminary hearing.

F299**[** F300(6A) A live link direction under this section may not be given unless the court is satisfied that it is not contrary to the interests of justice to give the direction.**]**

F301(7) F302. . . . . .

F303(8) A magistrates' court may rescind a live link direction under this section at any time F304. . . during a hearing to which it relates.

(9) A magistrates' court may require or permit—

F305(a) F306. . . . . .

(b) any party to the proceedings who wishes to make representations in relation to the giving or rescission of a live link direction under this section to do so through a live link.

(10) Where a live link direction under this section is given in relation to an accused person who is answering to live link bail he is to be treated as having surrendered to the custody of the court (as from the time when the direction is given).

(11) In this section, "live link bail" means bail granted under Part 4 of the Police and Criminal Evidence Act 1984 subject to the duty mentioned in section 47(3)(b) of that Act.

Textual Amendments

F299 S. 57C(6A) inserted (14.12.2009 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(a), 182(5) (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)

F300 S. 57C(6A) inserted (14.12.2009 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), **ss. 106(3)(a)**, 182(5) (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)

F301 S. 57C(7) repealed (14.12.2009 for specified purposes, 6.4.2010 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(b), 182(5), **Sch. 23 Pt. 3** (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2010/816, art. 4; S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)(e)

F302 S. 57C(7) repealed (14.12.2009 and 3.10.2011 in relation to specified areas, otherwise prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(b), 178, 182(5), **Sch. 23 Pt. 3** (with s. 180, Sch. 22); S.I. 2009/3253, **art. 3(1)(a)** (with art. 4(2)); S.I. 2010/816, **art. 4(b)**; S.I. 2011/2148, **art. 2(1)(a)(e)**

F303 Words in s. 57C(8) repealed (14.12.2009 for specified purposes, 6.4.2010 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(c), 182(5), Sch. 23 Pt. 3 (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2010/816, art. 4; S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)(e)

F304 Words in s. 57C(8) repealed (14.12.2009 for specified purposes, 6.4.2010 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(c), 182(5), **Sch. 23 Pt. 3** (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2010/816, art. 4; S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)(e)

F305 S. 57C(9)(a) repealed (14.12.2009 for specified purposes, 6.4.2010 for specified purposes, 3.10.2011 for specified purposes, 8.10.2012 in so far as not already in force) by Coroners and Justice Act 2009

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(c. 25), ss. 106(3)(d), 182(5), **Sch. 23 Pt. 3** (with s. 180); S.I. 2009/3253, art. 3(1)(a) (with art. 4); S.I. 2010/816, art. 4; S.I. 2011/2148, art. 2; S.I. 2012/2374, art. 3(a)(e)

F306 S. 57C(9)(a) and word repealed (14.12.2009 and 3.10.2011 in relation to specified areas, otherwise prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 106(3)(d), 178, 182(5), **Sch. 23 Pt. 3** (with s. 180, Sch. 22); S.I. 2009/3253, **art. 3(1)(a)** (with art. 4(2)); S.I. 2010/816, **art. 4(b)**; S.I. 2011/2148, **art. 2(1)(a)(e)**

57D Continued use of live link for sentencing hearing following a preliminary hearing

(1) Subsection (2) applies where—

(a) a live link direction under section 57B or 57C is in force;

(b) the accused is attending a preliminary hearing through a live link by virtue of the direction;

(c) the court convicts him of the offence in the course of that hearing (whether by virtue of a guilty plea or an indication of an intention to plead guilty); and

(d) the court proposes to continue the hearing as a sentencing hearing in relation to the offence.

(2) The accused may continue to attend through the live link by virtue of the direction if—

(a) the hearing is continued as a sentencing hearing in relation to the offence;

(b) [F307] . . . . . .

; and

(c) the court is satisfied that **[**[F308]the accused continuing to attend through the live link is not contrary to the interests of justice.**]**

(3) But the accused may not give oral evidence through the live link during a continued hearing under subsection (2) unless—

(a) [F309] . . . . . .

(b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.

Textual Amendments

F307 S. 57D(2)(b) repealed (14.12.2009) by Coroners and Justice Act 2009 (c. 25), ss. 106(4)(a)(i), 178, 182(5), **Sch. 23 Pt. 3**; S.I. 2009/3253, **art. 2(a)(ii)**; S.I. 2010/816, **art. 2**, Sch. para. 22(a)(i)

F308 Words in s. 57D(2)(c) substituted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 106(4)(a)(ii)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(a)(ii)**

F309 S. 57D(3)(a) and word repealed (14.12.2009) by Coroners and Justice Act 2009 (c. 25), ss. 106(4)(b), 178, 182(5), **Sch. 23 Pt. 3**; S.I. 2009/3253, **art. 2(a)(ii)**; S.I. 2010/816, **art. 2**, Sch. para. 22(a)(i)

57E Use of live link in sentencing hearings

(1) This section applies where the accused is convicted of the offence.

(2) If it appears to the court by or before which the accused is convicted that it is likely that he will be held in custody during any sentencing hearing for the offence, the court may give a live link direction under this section in relation to that hearing.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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(3) A live link direction under this section is a direction requiring the accused, if he is being held in custody during the hearing, to attend it through a live link from the place at which he is being held.

(4) Such a direction—

(a) may be given by the court of its own motion or on an application by a party; and

(b) may be given in relation to all subsequent sentencing hearings before the court or to such hearing or hearings as may be specified or described in the direction.

(5) The court may not give such a direction unless—

(a) [F310] . . . . . .

(b) the court is satisfied that it is not contrary to the interests of justice to give the direction.

(6) The court may rescind such a direction at any time before or during a hearing to which it relates if it appears to the court to be in the interests of justice to do so (but this does not affect the court's power to give a further live link direction in relation to the offender).

The court may exercise this power of its own motion or on an application by a party.

(7) The offender may not give oral evidence while attending a hearing through a live link by virtue of this section unless—

(a) [F311] . . . . . .

(b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.

(8) The court must—

(a) state in open court its reasons for refusing an application for, or for the rescission of, a live link direction under this section; and

(b) if it is a magistrates' court, cause those reasons to be entered in the register of its proceedings.

Textual Amendments

F310 S. 57E(5)(a) and word repealed (14.12.2009) by Coroners and Justice Act 2009 (c. 25), ss. 106(5)(a), 178, 182(5), **Sch. 23 Pt. 3**; S.I. 2009/3253, **art. 2(a)(ii)**; S.I. 2010/816, **art. 2**, Sch. para. 22(a)(i)

F311 S. 57E(7)(a) and word repealed (14.12.2009) by Coroners and Justice Act 2009 (c. 25), ss. 106(5)(b), 178, 182(5), **Sch. 23 Pt. 3**; S.I. 2009/3253, **art. 2(a)(ii)**; S.I. 2010/816, **art. 2**, Sch. para. 22(a)(i)

Modifications etc. (not altering text)

C29 S. 57E applied (15.1.2007) by Serious Organised Crime and Police Act 2005 (c. 15), **s. 75A** (as inserted by Police and Justice Act 2006 (c. 48), ss. 52, 53(1), **Sch. 14 para. 62**; S.I. 2006/3364, art. 2(k) (with art. 4) (as amended by S.I. 2007/29, **art. 2**))

[F312 57F Use of live link in certain enforcement hearings

(1) This section applies where—

(a) a confiscation order is made against a person; and

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the amount required to be paid under the order is not paid when it is required to be paid.

(2) If it appears to the court before which an enforcement hearing relating to the confiscation order is to take place that it is likely that the person will be held in custody at the time of the hearing, the court may give a live link direction under this section in relation to that hearing.

(3) A live link direction under this section is a direction requiring the person, if the person is being held in custody at the time of the hearing, to attend it through a live link from the place at which the person is being held.

(4) Such a direction—

(a) may be given by the court of its own motion or on an application by a party; and

(b) may be given in relation to all subsequent enforcement hearings before the court or to such hearing or hearings as may be specified or described in the direction.

(5) The court may rescind a live link direction under this section at any time before or during a hearing to which it relates.

(6) The court may not give or rescind a live link direction under this section (whether at a hearing or otherwise) unless the parties to the proceedings have been given the opportunity to make representations.

(7) If a hearing takes place in relation to the giving or rescinding of such a direction, the court may require or permit any party to the proceedings who wishes to make representations in relation to the giving or rescission of a live link direction under this section to do so through a live link.

(8) The person may not give oral evidence while attending a hearing through a live link by virtue of this section unless the court is satisfied that it is not contrary to the interests of justice for the person to give it that way.

(9) If in a case where it has power to do so a court decides not to give a live link direction under this section, it must—

(a) state in open court its reasons for not doing so; and

(b) cause those reasons to be entered in the register of its proceedings.

(10) The following functions of a magistrates' court under this section may be discharged by a single justice—

(a) giving a live link direction under this section;

(b) rescinding a live link direction before a preliminary hearing begins; and

(c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).**]]**

Textual Amendments

F312 S. 57F inserted (14.12.2009) by Coroners and Justice Act 2009 (c. 25), **ss. 109(1)**, 182(5) (with s. 180, Sch. 22); S.I. 2009/3253, **art. 2(b)**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART IV

DEALING WITH OFFENDERS

CHAPTER I

ENGLAND AND WALES

Sexual or violent offenders

[F313]58 . . . . . .

Textual Amendments

F313 S. 58 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

59 Effect of extended sentences.

[F314] . . . . . .

Textual Amendments

F314 S. 59 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 44(4)(p) (with Sch. 2)

60 Re-release of prisoners serving extended sentences.

[F315] . . . . . .

Textual Amendments

F315 S. 60 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 44(4)(p) (with Sch. 2)

Offenders dependent etc. on drugs

[F316]61 . . . . . .

Textual Amendments

F316 Ss. 61-64 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F317]62 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F317 Ss. 61-64 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F318]63 . . . . . .

Textual Amendments

F318 Ss. 61-64 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F319]64 . . . . . .

Textual Amendments

F319 Ss. 61-64 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Young offenders: reprimands and warnings

[F320]65 Reprimands and warnings.

. . . . . .

Textual Amendments

F320 S. 65 omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 135(1)**, 151(1) (with s. 135(4)-(7)); S.I. 2013/453, art. 4(d)

[F321]66 Effect of reprimands and warnings.

. . . . . .

Textual Amendments

F321 S. 66 omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 135(1)**, 151(1) (with s. 135(4)-(7)); S.I. 2013/453, art. 4(d)

[F322 Young offenders: youth cautions

Textual Amendments

F322 Ss. 66ZA, 66ZB and cross-heading inserted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 135(2)**, 151(1) (with s. 135(4)); S.I. 2013/453, art. 4(d)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

66ZA Youth cautions

(1) A constable may give a child or young person ("Y") a caution under this section (a "youth caution") if—

(a) the constable decides that there is sufficient evidence to charge Y with an offence,

(b) Y admits to the constable that Y committed the offence, and

(c) the constable does not consider that Y should be prosecuted or given a youth conditional caution in respect of the offence.

(2) A youth caution [F323]... must be given in the presence of an appropriate adult.

(3) If a constable gives a youth caution to a person, the constable must explain the matters referred to in subsection (4) in ordinary language to—

(a) that person, and

(b) [F324]... the appropriate adult.

(4) Those matters are—

(a) the effect of subsections (1) to (3) and (5) to (7) of section 66ZB, and

(b) any guidance issued under subsection (4) of that section.

(5) The Secretary of State must publish, in such manner as the Secretary of State considers appropriate, guidance as to—

(a) the circumstances in which it is appropriate to give youth cautions,

(b) the places where youth cautions may be given,

(c) the category of constable by whom youth cautions may be given, and

(d) the form which youth cautions are to take and the manner in which they are to be given and recorded.

(6) No caution other than a youth caution or a youth conditional caution may be given to a child or young person.

(7) In this Chapter "appropriate adult", in relation to a child or young person, means—

(a) a parent or guardian of the child or young person,

(b) if the child or young person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation,

(c) a social worker of a local authority, or

(d) if no person falling within paragraph (a), (b) or (c) is available, any responsible person aged 18 or over who is not a police officer or **[**[F325] a person employed for, or engaged on, police purposes; and "police purposes" has the meaning given by section 101(2) of the Police Act 1996 **]** .

Textual Amendments

F323 Words in s. 66ZA(2) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 41(2)(a)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 33

F324 Words in s. 66ZA(3)(b) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 41(2)(b)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 33

F325 Words in s. 66ZA(7)(d) substituted (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. 79(2)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 27

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

66ZB Effect of youth cautions

(1) If a constable gives a youth caution to a person, the constable must as soon as practicable refer the person to a youth offending team.

(2) Subject to subsection (3), on a referral of a person under subsection (1), the youth offending team—
  (a) must assess the person, and
  (b) unless they consider it inappropriate to do so, must arrange for the person to participate in a rehabilitation programme.

(3) If the person has not previously been referred under subsection (1) and has not previously been given a youth conditional caution, the youth offending team—
  (a) may assess the person, and
  (b) may arrange for the person to participate in a rehabilitation programme.

(4) The Secretary of State must publish, in such manner as the Secretary of State considers appropriate, guidance as to—
  (a) what should be included in a rehabilitation programme arranged for a person under subsection (2) or (3),
  (b) the manner in which any failure by a person to participate in a programme is to be recorded, and
  (c) the persons to whom any such failure must be notified.

(5) Subsection (6) applies if—
  (a) a person who has received two or more youth cautions is convicted of an offence committed within two years beginning with the date of the last of those cautions, or
  (b) a person who has received a youth conditional caution followed by a youth caution is convicted of an offence committed within two years beginning with the date of the youth caution.

(6) The court by or before which the person is convicted—
  (a) must not make an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge) in respect of the offence unless it is of the opinion that there are exceptional circumstances relating to the offence or the person that justify it doing so, and
  (b) where it does so, must state in open court that it is of that opinion and its reasons for that opinion.

(7) There may be cited in criminal proceedings—
  (a) a youth caution given to a person, and
  (b) a report on a failure by a person to participate in a rehabilitation programme arranged for the person under subsection (2) or (3),

  in the same circumstances as a conviction of the person may be cited.

(8) In this section "rehabilitation programme" means a programme with the purpose of rehabilitating participants and preventing them from re-offending.**]**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F326 Young offenders: youth conditional cautions

Textual Amendments

F326 Ss. 66A-66H (and cross-headings before ss. 66A, 66H) inserted (1.2.2009 for the insertion of ss. 66G, 66H, 1.4.2009 for the insertion of s. 66C, 16.11.2009 for the insertion of ss. 66A, 66B, 66D-66F for specified purposes, 8.4.2013 in so far as not already in force) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 9 para. 3** (with Sch. 27 para. 18); S.I. 2009/140, art. 2(e)(ii); S.I. 2009/860, art. 2(1)(h); S.I. 2009/2780, art. 2(1)(c)(2); S.I. 2013/616, art. 2(b)

66A Youth conditional cautions

(1) An authorised person may give a youth conditional caution to a child or young person ("the offender") if—

F327(a) . . . . . .

(b) each of the five requirements in section 66B is satisfied.

(2) In this Chapter, "youth conditional caution" means a caution which is given in respect of an offence committed by the offender and which has conditions attached to it with which the offender must comply.

(3) The conditions which may be attached to such a caution are those which have one or more of the following objects—

(a) facilitating the rehabilitation of the offender;

(b) ensuring that the offender makes reparation for the offence;

(c) punishing the offender.

(4) The conditions that may be attached to a youth conditional caution include—

(a) (subject to section 66C) a condition that the offender pay a financial penalty;

(b) a condition that the offender attend at a specified place at specified times.

"Specified" means specified **[**F328in the condition**]**.

(5) Conditions attached by virtue of subsection (4)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender's rehabilitation.

(6) The Secretary of State may by order amend subsection (5) by substituting a different figure.

F329(6A) **[** If an authorised person gives a youth conditional caution to an offender, the authorised person must as soon as practicable refer the offender to a youth offending team.**]**

(7) In this section, "authorised person" means—

(a) a constable,

(b) an investigating officer, or

(c) a person authorised by a relevant prosecutor for the purposes of this section.

Textual Amendments

F327 S. 66A(1)(a) omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 136**, 151(1); S.I. 2013/453, art. 4(d)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F328 Words in s. 66A(4) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 138(2)**, 151(1); S.I. 2013/453, art. 4(d)

F329 S. 66A(6A) inserted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 137**, 151(1); S.I. 2013/453, art. 4(d)

66B The five requirements

(1) The first requirement is that the authorised person has evidence that the offender has committed an offence.

(2) The second requirement is that a relevant prosecutor **[**[F330]or the authorised person**]** decides—

(a) that there is sufficient evidence to charge the offender with the offence, and

(b) that a youth conditional caution should be given to the offender in respect of the offence.

(3) The third requirement is that the offender admits to the authorised person that he committed the offence.

(4) The fourth requirement is that the authorised person explains the effect of the youth conditional caution to the offender and warns him that failure to comply with any of the conditions attached to the caution may result in his being prosecuted for the offence.

(5) [F331]... The explanation and warning mentioned in subsection (4) must be given in the presence of an appropriate adult.

(6) The fifth requirement is that the offender signs a document which contains—

(a) details of the offence,

(b) an admission by him that he committed the offence,

(c) his consent to being given the youth conditional caution, and

(d) the conditions attached to the caution.

Textual Amendments

F330 Words in s. 66B(2) inserted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 138(3)**, 151(1); S.I. 2013/453, art. 4(d)

F331 Words in s. 66B(5) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 41(3)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 33

[[F332]66BA Duty to consult victims

(1) Before deciding what conditions to attach to a youth conditional caution, a relevant prosecutor or the authorised person must make reasonable efforts to obtain the views of the victim (if any) of the offence, and in particular the victim's views as to whether the offender should carry out any of the actions listed in the community remedy document.

(2) If the victim expresses the view that the offender should carry out a particular action listed in the community remedy document, the prosecutor or authorised person must attach that as a condition unless it seems to the prosecutor or authorised person that it would be inappropriate to do so.

(3) Where—

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(a) there is more than one victim and they express different views, or

(b) for any other reason subsection (2) does not apply,

the prosecutor or authorised person must nevertheless take account of any views expressed by the victim (or victims) in deciding what conditions to attach to the conditional caution.

(4) In this section—

"community remedy document" means the community remedy document (as revised from time to time) published under section 101 of the Anti-social Behaviour, Crime and Policing Act 2014 for the police area in which the offence was committed;

"victim" means the particular person who seems to the relevant prosecutor or authorised person to have been affected, or principally affected, by the offence.**]**

Textual Amendments

F332 S. 66BA inserted (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 103(2)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(d)

66C Financial penalties

(1) A condition that the offender pay a financial penalty (a "financial penalty condition") may not be attached to a youth conditional caution given in respect of an offence unless the offence is one that is prescribed, or of a description prescribed, in an order made by the Secretary of State.

(2) An order under subsection (1) must prescribe, in respect of each offence or description of offence in the order, the maximum amount of the penalty that may be specified under subsection (5)(a).

(3) The amount that may be prescribed in respect of any offence must not exceed £100.

(4) The Secretary of State may by order amend subsection (3) by substituting a different figure.

(5) Where a financial penalty condition is attached to a youth conditional caution, **[**[F333]the condition must**]** specify—

(a) the amount of the penalty, and

(b) the person to whom the financial penalty is to be paid and how it may be paid.

(6) To comply with the condition, the offender must pay the penalty in accordance with the provision specified under subsection (5)(b).

(7) Where a financial penalty is (in accordance with the provision specified under subsection (5)(b)) paid to a person other than a designated officer for a local justice area, the person to whom it is paid must give the payment to such an officer.

Textual Amendments

F333 Words in s. 66C(5) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 138(4)**, 151(1); S.I. 2013/453, art. 4(d)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

66D Variation of conditions

A relevant prosecutor **[**[F334]or an authorised person**]** may, with the consent of the offender, vary the conditions attached to a youth conditional caution by—

(a) modifying or omitting any of the conditions;

(b) adding a condition.

Textual Amendments

F334 Words in s. 66D inserted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 138(5)**, 151(1); S.I. 2013/453, art. 4(d)

[F335]66E Failure to comply with conditions

(1) If the offender fails, without reasonable excuse, to comply with any of the conditions attached to the youth conditional caution, criminal proceedings may be instituted against the person for the offence in question.

(2) The document mentioned in section 66B(6) is to be admissible in such proceedings.

(3) Where such proceedings are instituted, the youth conditional caution is to cease to have effect.

(4) Section 24A(1) of the Criminal Justice Act 2003 ("the 2003 Act") applies in relation to the conditions attached to a youth conditional caution as it applies in relation to the conditions attached to a conditional caution (within the meaning of Part 3 of that Act).

(5) Sections 24A(2) to (9) and 24B of the 2003 Act apply in relation to a person who is arrested under section 24A(1) of that Act by virtue of subsection (4) above as they apply in relation to a person who is arrested under that section for failing to comply with any of the conditions attached to a conditional caution (within the meaning of Part 3 of that Act).

Textual Amendments

F335 Ss. 66A-66H and cross-heading inserted (1.2.2009 for the insertion of ss. 66G, 66H, 1.4.2009 for the insertion of s. 66C, 16.11.2009 for the insertion of ss. 66A, 66B, 66D-66F for specified purposes, 8.4.2013 in so far as not already in force) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 9 para. 3** (with Sch. 27 para. 18); S.I. 2009/140, art. 2(e)(ii); S.I. 2009/860, art. 2(1)(h); S.I. 2009/2780, art. 2(1)(c)(2); S.I. 2013/616, art. 2(b)

[F335]66F Restriction on sentencing powers where youth conditional caution given

Where a person who has been given a youth conditional caution is convicted of an offence committed within two years of the giving of the caution, the court by or before which the person is so convicted—

(a) may not make an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge) in respect of the offence unless it is of the opinion that there are exceptional circumstances relating to the offence or the offender which justify its doing so; and

(b) where it does make such an order, must state in open court that it is of that opinion and why it is.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F335 Ss. 66A-66H and cross-heading inserted (1.2.2009 for the insertion of ss. 66G, 66H, 1.4.2009 for the insertion of s. 66C, 16.11.2009 for the insertion of ss. 66A, 66B, 66D-66F for specified purposes, 8.4.2013 in so far as not already in force) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 9 para. 3** (with Sch. 27 para. 18); S.I. 2009/140, art. 2(e)(ii); S.I. 2009/860, art. 2(1)(h); S.I. 2009/2780, art. 2(1)(c)(2); S.I. 2013/616, art. 2(b)

66G Code of practice on youth conditional cautions

(1) The Secretary of State must prepare a code of practice in relation to youth conditional cautions.

(2) The code may, in particular, make provision as to—

(a) the circumstances in which youth conditional cautions may be given,

(b) the procedure to be followed in connection with the giving of such cautions,

(c) the conditions which may be attached to such cautions and the time for which they may have effect,

(d) the category of constable or investigating officer by whom such cautions may be given,

(e) the persons who may be authorised by a relevant prosecutor for the purposes of section 66A,

(f) the form which such cautions are to take and the manner in which they are to be given and recorded,

(g) the places where such cautions may be given,

(h) the provision which may be made **[**[F336] in a condition**]** under section 66C(5)(b),

(i) the monitoring of compliance with conditions attached to such cautions,

(j) the exercise of the power of arrest conferred by section 24A(1) of the Criminal Justice Act 2003 (c. 44) as it applies by virtue of section 66E(4),

(k) who is to decide how a person should be dealt with under section 24A(2) of that Act as it applies by virtue of section 66E(5).

(3) After preparing a draft of the code the Secretary of State—

(a) must publish the draft,

(b) must consider any representations made to him about the draft, and

(c) may amend the draft accordingly,

but he may not publish or amend the draft without the consent of the Attorney General.

(4) After the Secretary of State has proceeded under subsection (3) he must lay the code before each House of Parliament.

(5) When he has done so he may bring the code into force by order.

(6) The Secretary of State may from time to time revise a code of practice brought into force under this section.

(7) Subsections (3) to (6) are to apply (with appropriate modifications) to a revised code as they apply to an original code.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F336 Words in s. 66G(2)(h) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 138(6)**, 151(1); S.I. 2013/453, art. 4(d)

Interpretation of Chapter 1

66H Interpretation

In this Chapter—

(a) "appropriate adult" has the meaning given by section **[**[F337]66ZA(7)**]**;

(b) "authorised person" has the meaning given by section 66A(7);

(c) "investigating officer" means an officer of Revenue and Customs, appointed in accordance with section 2(1) of the Commissioners for Revenue and Customs Act 2005, or a person designated as **[**[F338] a policing support officer or a policing support volunteer **]** under section 38 of the Police Reform Act 2002 (c. 30);

(d) "the offender" has the meaning given by section 66A(1);

(e) "relevant prosecutor" means—

(i) the Attorney General,

[F339](ii) . . . . . .

(iii) the Director of Revenue and Customs Prosecutions,

(iv) the Director of Public Prosecutions,

(v) the Secretary of State, or

(vi) a person who is specified in an order made by the Secretary State as being a relevant prosecutor for the purposes of this Chapter;

[[F340](ea) "youth caution" has the meaning given by section 66ZA(1);**]**

(f) "youth conditional caution" has the meaning given by section 66A(2).**]**

Textual Amendments

F337 Word in s. 66H(a) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 16(a)** (with s. 135(4)); S.I. 2013/453, art. 4(f)

F338 Words in s. 66H(c) substituted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 12 para. 11**; S.I. 2017/1139, reg. 2(k) (as amended by S.I. 2017/1162, reg. 2)

F339 S. 66H(e)(iii) omitted (27.3.2014) by virtue of The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 2 para. 16**

F340 S. 66H(ea) inserted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 16(b)** (with s. 135(4)); S.I. 2013/453, art. 4(f)

Young offenders: non-custodial orders

[F341]67 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F341 S. 67 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F342]68 . . . . . .

Textual Amendments

F342 S. 68 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F343]69 . . . . . .

Textual Amendments

F343 S. 69 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F344]70 . . . . . .

Textual Amendments

F344 S. 70 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F345]71 . . . . . .

Textual Amendments

F345 S. 71 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F346]72 . . . . . .

Textual Amendments

F346 S. 72 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Young offenders: detention and training orders

[F347]73 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F347 S. 73 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F348]74 . . . . . .

Textual Amendments

F348 S. 74 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F349]75 . . . . . .

Textual Amendments

F349 S. 75 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F350]76 . . . . . .

Textual Amendments

F350 S. 76 repealed (25.8.2000) by 2000 c. 6. ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

[F351]77 . . . . . .

Textual Amendments

F351 S. 77 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F352]78 . . . . . .

Textual Amendments

F352 S. 78 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F353]79 . . . . . .

Textual Amendments

F353 S. 79 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Sentencing: general

80 Sentencing guidelines.

F354 . . . . . .

Textual Amendments

F354 Ss. 80, 81 repealed (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 303(c), 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2004/81, **art. 5(2)(e)**

81 The Sentencing Advisory Panel.

F355 . . . . . .

Textual Amendments

F355 Ss. 80, 81 repealed (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 303(c), 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2004/81, **art. 5(2)(e)**

F356 82 . . . . . .

Textual Amendments

F356 S. 82 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Miscellaneous and supplemental

83 Power to make confiscation orders on committal for sentence.

F357 . . . . . .

Textual Amendments

F357 S. 83 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1), **Sch. 12**; S.I. 2003/333, **art. 2(1)**, Sch.

F358 84 . . . . . .

Textual Amendments

F358 S. 84 repealed (28.8.2000) by 2000 c. 25, s. 1, Sch. 3; S.I. 2000/2125, art. 2; and s. 84(2) expressed to be repealed (1.10.2002) by Police Reform Act 2002 (c. 30), ss. 107(2), 108(2), **Sch. 8**; S.I. 2002/2306, **art. 2(g)(i)(iii)(f)**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F359]85 . . . . . .

Textual Amendments
F359 S. 85 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

CHAPTER II

SCOTLAND

Sexual or violent offenders

86 Extended sentences for sex and violent offenders.

(1) After section 210 of the 1995 Act there shall be inserted the following section—

"210A Extended sentences for sex and violent offenders.

(1) Where a person is convicted on indictment of a sexual or violent offence, the court may, if it—
  (a) intends, in relation to—
    (i) a sexual offence, to pass a determinate sentence of imprisonment; or
    (ii) a violent offence, to pass such a sentence for a term of four years or more; and
  (b) considers that the period (if any) for which the offender would, apart from this section, be subject to a licence would not be adequate for the purpose of protecting the public from serious harm from the offender,

pass an extended sentence on the offender.

(2) An extended sentence is a sentence of imprisonment which is the aggregate of—
  (a) the term of imprisonment ("the custodial term") which the court would have passed on the offender otherwise than by virtue of this section; and
  (b) a further period ("the extension period") for which the offender is to be subject to a licence and which is, subject to the provisions of this section, of such length as the court considers necessary for the purpose mentioned in subsection (1)(b) above.

(3) The extension period shall not exceed, in the case of—
  (a) a sexual offence, ten years; and
  (b) a violent offence, five years.

(4) A court shall, before passing an extended sentence, consider a report by a relevant officer of a local authority about the offender and his circumstances and, if the court thinks it necessary, hear that officer.

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(5) The term of an extended sentence passed for a statutory offence shall not exceed the maximum term of imprisonment provided for in the statute in respect of that offence.

(6) Subject to subsection (5) above, a sheriff may pass an extended sentence which is the aggregate of a custodial term not exceeding the maximum term of imprisonment which he may impose and an extension period not exceeding three years.

(7) The Secretary of State may by order—

(a) amend paragraph (b) of subsection (3) above by substituting a different period, not exceeding ten years, for the period for the time being specified in that paragraph; and

(b) make such transitional provision as appears to him to be necessary or expedient in connection with the amendment.

(8) The power to make an order under subsection (7) above shall be exercisable by statutory instrument; but no such order shall be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(9) An extended sentence shall not be imposed where the sexual or violent offence was committed before the commencement of section 86 of the Crime and Disorder Act 1998.

(10) For the purposes of this section—

"licence" and "relevant officer" have the same meaning as in Part I of the [M42]Prisoners and Criminal Proceedings (Scotland) Act 1993;

"sexual offence" means—

(i) rape;

(ii) clandestine injury to women;

(iii) abduction of a woman or girl with intent to rape or ravish;

(iv) assault with intent to rape or ravish;

(v) indecent assault;

(vi) lewd, indecent or libidinous behaviour or practices;

(vii) shameless indecency;

(viii) sodomy;

(ix) an offence under section 170 of the [M43]Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under section 42 of the [M44]Customs Consolidation Act 1876, but only where the prohibited goods include indecent photographs of persons;

(x) an offence under section 52 of the [M45]Civic Government (Scotland) Act 1982 (taking and distribution of indecent images of children);

(xi) an offence under section 52A of that Act (possession of indecent images of children);

(xii) an offence under section 1 of the [M46]Criminal Law (Consolidation) (Scotland) Act 1995 (incest);

(xiii) an offence under section 2 of that Act (intercourse with a stepchild);

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(xiv) an offence under section 3 of that Act (intercourse with child under 16 by person in position of trust);

(xv) an offence under section 5 of that Act (unlawful intercourse with girl under 16);

(xvi) an offence under section 6 of that Act (indecent behaviour towards girl between 12 and 16);

(xvii) an offence under section 8 of that Act (abduction of girl under 18 for purposes of unlawful intercourse);

(xviii) an offence under section 10 of that Act (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16); and

(xix) an offence under subsection (5) of section 13 of that Act (homosexual offences);

"imprisonment" includes—

(i) detention under section 207 of this Act; and

(ii) detention under section 208 of this Act; and

"violent offence" means any offence (other than an offence which is a sexual offence within the meaning of this section) inferring personal violence.

(11) Any reference in subsection (10) above to a sexual offence includes—

(a) a reference to any attempt, conspiracy or incitement to commit that offence; and

(b) except in the case of an offence in paragraphs (i) to (viii) of the definition of "sexual offence" in that subsection, a reference to aiding and abetting, counselling or procuring the commission of that offence."

(2) In section 209 of the 1995 Act (supervised release orders), in subsection (1)—

(a) after the word "convicted" there shall be inserted the words " on indictment ";

(b) after the words "an offence" there shall be inserted the words " , other than a sexual offence within the meaning of section 210A of this Act, "; and

(c) the words "not less than twelve months but" shall cease to have effect.

Modifications etc. (not altering text)

C30 S. 86(2)(b)(c) restricted (19.9.1998) by S.I. 1998/2327, **art.8(2)**.

Commencement Information

I38 S. 86 wholly in force; S. 86 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M42 1993 c.9.

M43 1979 c.2.

M44 1876 c.36.

M45 1982 c.45.

M46 1995 c.39.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

87 Further provision as to extended sentences.

After section 26 of the [M47]Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act") there shall be inserted the following section—

" Extended sentences

26A Extended sentences.

(1) This section applies to a prisoner who, on or after the date on which section 87 of the Crime and Disorder Act 1998 comes into force, has been made subject to an extended sentence within the meaning of section 210A of the 1995 Act (extended sentences).

(2) Subject to the provisions of this section, this Part of this Act, except section 1A, shall apply in relation to extended sentences as if any reference to a sentence or term of imprisonment was a reference to the custodial term of an extended sentence.

(3) Where a prisoner subject to an extended sentence is released on licence under this Part the licence shall, subject to any revocation under section 17 of this Act, remain in force until the end of the extension period.

(4) Where, apart from this subsection, a prisoner subject to an extended sentence would be released unconditionally—
   (a) he shall be released on licence; and
   (b) the licence shall, subject to any revocation under section 17 of this Act, remain in force until the end of the extension period.

(5) The extension period shall be taken to begin as follows—
   (a) for the purposes of subsection (3) above, on the day following the date on which, had there been no extension period, the prisoner would have ceased to be on licence in respect of the custodial term;
   (b) for the purposes of subsection (4) above, on the date on which, apart from that subsection, he would have been released unconditionally.

(6) Subject to section 1A(c) of this Act and section 210A(3) of the 1995 Act and to any direction by the court which imposes an extended sentence, where a prisoner is subject to two or more extended sentences, the extension period which is taken to begin in accordance with subsection (5) above shall be the aggregate of the extension period of each of those sentences.

(7) For the purposes of sections 12(3) and 17(1) of this Act, and subject to subsection (8) below, the question whether a prisoner is a long-term or short-term prisoner shall be determined by reference to the extended sentence.

(8) Where a short-term prisoner serving an extended sentence in respect of a sexual offence is released on licence under subsection (4)(a) above, the provisions of section 17 of this Act shall apply to him as if he was a long-term prisoner.

(9) In relation to a prisoner subject to an extended sentence, the reference in section 17(5) of this Act to his sentence shall be construed as a reference to the extended sentence.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(10) For the purposes of this section "custodial term", "extension period" and "imprisonment" shall have the same meaning as in section 210A of the 1995 Act.

(11) In section 1A(c) and section 16(1)(a) of this Act, the reference to the date on which a prisoner would have served his sentence in full shall mean, in relation to a prisoner subject to an extended sentence, the date on which the extended sentence, as originally imposed by the court, would expire."

Commencement Information

I39 S. 87 wholly in force; S. 87 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M47 1993 c.9.

88 Re-release of prisoners serving extended sentences.

After section 3 of the 1993 Act there shall be inserted the following section—

"3A Re-release of prisoners serving extended sentences.

(1) This section applies to a prisoner serving an extended sentence within the meaning of section 210A of the 1995 Act (extended sentences) who has been recalled to prison under section 17(1) of this Act.

(2) Subject to subsection (3) below, a prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole Board—

(a) where his case has previously been referred to the Parole Board under this section or section 17(3) of this Act, not less than one year following the disposal of that referral;

(b) in any other case, at any time.

(3) Where a prisoner to whom this section applies is subject to another sentence which is not treated as a single sentence with the extended sentence, the Secretary of State shall not be required to refer his case to the Parole Board before he has served one half of that other sentence.

(4) Where the case of a prisoner to whom this section applies is referred to the Parole Board under this section or section 17(3) of this Act, the Board shall, if it is satisfied that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined (but not otherwise), direct that he should be released.

(5) If the Parole Board gives a direction under subsection (4) above, the Secretary of State shall release the prisoner on licence."

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I40 S. 88 wholly in force; S. 88 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Offenders dependent etc. on drugs

89 Drug treatment and testing orders.

After section 234A of the 1995 Act there shall be inserted the following section—

"234B Drug treatment and testing order.

(1) This section applies where a person of 16 years of age or more is convicted of an offence, other than one for which the sentence is fixed by law, committed on or after the date on which section 89 of the Crime and Disorder Act 1998 comes into force.

(2) Subject to the provisions of this section, the court by or before which the offender is convicted may, if it is of the opinion that it is expedient to do so instead of sentencing him, make an order (a "drug treatment and testing order") which shall—

(a) have effect for a period specified in the order of not less than six months nor more than three years ("the treatment and testing period"); and

(b) include the requirements and provisions mentioned in section 234C of this Act.

(3) A court shall not make a drug treatment and testing order unless it—

(a) has been notified by the Secretary of State that arrangements for implementing such orders are available in the area of the local authority proposed to be specified in the order under section 234C(6) of this Act and the notice has not been withdrawn;

(b) has obtained a report by, and if necessary heard evidence from, an officer of the local authority in whose area the offender is resident about the offender and his circumstances; and

(c) is satisfied that—

(i) the offender is dependent on, or has a propensity to misuse, drugs;

(ii) his dependency or propensity is such as requires and is susceptible to treatment; and

(iii) he is a suitable person to be subject to such an order.

(4) For the purpose of determining for the purposes of subsection (3)(c) above whether the offender has any drug in his body, the court may by order require him to provide samples of such description as it may specify.

(5) A drug treatment and testing order or an order under subsection (4) above shall not be made unless the offender expresses his willingness to comply with its requirements.

(6) The Secretary of State may by order—

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(a) amend paragraph (a) of subsection (2) above by substituting a different period for the minimum or the maximum period for the time being specified in that paragraph; and

(b) make such transitional provisions as appear to him necessary or expedient in connection with any such amendment.

(7) The power to make an order under subsection (6) above shall be exercisable by statutory instrument; but no such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

(8) A drug treatment and testing order shall be as nearly as may be in the form prescribed by Act of Adjournal."

Commencement Information

I41 S. 89 wholly in force; S. 89 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

90 Requirements and provisions to be included in drug treatment and testing orders.

After section 234B of the 1995 Act there shall be inserted the following section—

"234C Requirements and provisions of drug treatment and testing orders.

(1) A drug treatment and testing order shall include a requirement ("the treatment requirement") that the offender shall submit, during the whole of the treatment and testing period, to treatment by or under the direction of a specified person having the necessary qualifications or experience ("the treatment provider") with a view to the reduction or elimination of the offender's dependency on or propensity to misuse drugs.

(2) The required treatment for any particular period shall be—

(a) treatment as a resident in such institution or place as may be specified in the order; or

(b) treatment as a non-resident in or at such institution or place, and at such intervals, as may be so specified;

but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a) or (b) above.

(3) A court shall not make a drug treatment and testing order unless it is satisfied that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is required to submit to treatment as a resident).

(4) A drug treatment and testing order shall include a requirement ("the testing requirement") that, for the purpose of ascertaining whether he has any drug in his body during the treatment and testing period, the offender shall provide during that period, at such times and in such circumstances as may (subject to the provisions of the order) be determined by the treatment provider, samples of such description as may be so determined.

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(5) The testing requirement shall specify for each month the minimum number of occasions on which samples are to be provided.

(6) A drug treatment and testing order shall specify the local authority in whose area the offender will reside when the order is in force and require that authority to appoint or assign an officer (a "supervising officer") for the purposes of subsections (7) and (8) below.

(7) A drug treatment and testing order shall—

(a) provide that, for the treatment and testing period, the offender shall be under the supervision of a supervising officer;

(b) require the offender to keep in touch with the supervising officer in accordance with such instructions as he may from time to time be given by that officer, and to notify him of any change of address; and

(c) provide that the results of the tests carried out on the samples provided by the offender in pursuance of the testing requirement shall be communicated to the supervising officer.

(8) Supervision by the supervising officer shall be carried out to such extent only as may be necessary for the purpose of enabling him—

(a) to report on the offender's progress to the appropriate court;

(b) to report to that court any failure by the offender to comply with the requirements of the order; and

(c) to determine whether the circumstances are such that he should apply to that court for the variation or revocation of the order."

Commencement Information

I42 S. 90 wholly in force; S. 90 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

91 Procedural matters relating to drug treatment and testing orders.

After section 234C of the 1995 Act there shall be inserted the following section—

"234D Procedural matters relating to drug treatment and testing orders.

(1) Before making a drug treatment and testing order, a court shall explain to the offender in ordinary language—

(a) the effect of the order and of the requirements proposed to be included in it;

(b) the consequences which may follow under section 234G of this Act if he fails to comply with any of those requirements;

(c) that the court has power under section 234E of this Act to vary or revoke the order on the application of either the offender or the supervising officer; and

(d) that the order will be periodically reviewed at intervals provided for in the order.

(2) Upon making a drug treatment and testing order the court shall—

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(a) give, or send by registered post or the recorded delivery service, a copy of the order to the offender;

(b) send a copy of the order to the treatment provider;

(c) send a copy of the order to the chief social work officer of the local authority specified in the order in accordance with section 234C(6) of this Act; and

(d) where it is not the appropriate court, send a copy of the order (together with such documents and information relating to the case as are considered useful) to the clerk of the appropriate court.

(3) Where a copy of a drug treatment and testing order has under subsection (2)(a) been sent by registered post or by the recorded delivery service, an acknowledgment or certificate of delivery of a letter containing a copy order issued by the Post Office shall be sufficient evidence of the delivery of the letter on the day specified in such acknowledgement or certificate."

Commencement Information

I43 S. 91 wholly in force; S. 91 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

[F360]92 Amendment and periodic review of drug treatment and testing orders.

After section 234D of the 1995 Act there shall be inserted the following sections—

"234E Amendment of drug treatment and testing order.

(1) Where a drug treatment and testing order is in force either the offender or the supervising officer may apply to the appropriate court for variation or revocation of the order.

(2) Where an application is made under subsection (1) above by the supervising officer, the court shall issue a citation requiring the offender to appear before the court.

(3) On an application made under subsection (1) above and after hearing both the offender and the supervising officer, the court may by order, if it appears to it in the interests of justice to do so—

(a) vary the order by—

(i) amending or deleting any of its requirements or provisions;

(ii) inserting further requirements or provisions; or

(iii) subject to subsection (4) below, increasing or decreasing the treatment and testing period; or

(b) revoke the order.

(4) The power conferred by subsection (3)(a)(iii) above shall not be exercised so as to increase the treatment and testing period above the maximum for the time being specified in section 234B(2)(a) of this Act, or to decrease it below the minimum so specified.

(5) Where the court, on the application of the supervising officer, proposes to vary (otherwise than by deleting a requirement or provision) a drug treatment

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and testing order, sections 234B(5) and 234D(1) of this Act shall apply to the variation of such an order as they apply to the making of such an order.

(6) If an offender fails to appear before the court after having been cited in accordance with subsection (2) above, the court may issue a warrant for his arrest.

234F Periodic review of drug treatment and testing order.

(1) A drug treatment and testing order shall—
- (a) provide for the order to be reviewed periodically at intervals of not less than one month;
- (b) provide for each review of the order to be made, subject to subsection (5) below, at a hearing held for the purpose by the appropriate court (a "review hearing");
- (c) require the offender to attend each review hearing;
- (d) provide for the supervising officer to make to the court, before each review, a report in writing on the offender's progress under the order; and
- (e) provide for each such report to include the test results communicated to the supervising officer under section 234C(7)(c) of this Act and the views of the treatment provider as to the treatment and testing of the offender.

(2) At a review hearing the court, after considering the supervising officer's report, may amend any requirement or provision of the order.

(3) The court—
- (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended;
- (b) shall not amend any provision of the order so as reduce the treatment and testing period below the minimum specified in section 234B(2)(a) of this Act or to increase it above the maximum so specified; and
- (c) except with the consent of the offender, shall not amend any requirement or provision of the order while an appeal against the order is pending.

(4) If the offender fails to express his willingness to comply with the treatment or testing requirement as proposed to be amended by the court, the court may revoke the order.

(5) If at a review hearing the court, after considering the supervising officer's report, is of the opinion that the offender's progress under the order is satisfactory, the court may so amend the order as to provide for each subsequent review to be made without a hearing.

(6) A review without a hearing shall take place in chambers without the parties being present.

(7) If at a review without a hearing the court, after considering the supervising officer's report, is of the opinion that the offender's progress is no longer satisfactory, the court may issue a warrant for the arrest of the offender or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a

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citation requiring the offender to appear before that court as such time as may be specified in the citation.

(8) Where an offender fails to attend—
  (a) a review hearing in accordance with a requirement contained in a drug treatment and testing order; or
  (b) a court at the time specified in a citation under subsection (7) above,

the court may issue a warrant for his arrest.

(9) Where an offender attends the court at a time specified by a citation issued under subsection (7) above—
  (a) the court may exercise the powers conferred by this section as if the court were conducting a review hearing; and
  (b) so amend the order as to provide for each subsequent review to be made at a review hearing."

Textual Amendments

F360 S. 92 wholly in force; S. 92 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

93 Consequences of breach of drug treatment and testing order.

After section 234F of the 1995 Act there shall be inserted the following sections—

"234G Breach of drug treatment testing order.

(1) If at any time when a drug treatment and testing order is in force it appears to the appropriate court that the offender has failed to comply with any requirement of the order, the court may issue a citation requiring the offender to appear before the court at such time as may be specified in the citation or, if it appears to the court to be appropriate, it may issue a warrant for the arrest of the offender.

(2) If it is proved to the satisfaction of the appropriate court that the offender has failed without reasonable excuse to comply with any requirement of the order, the court may by order—
  (a) without prejudice to the continuation in force of the order, impose a fine not exceeding level 3 on the standard scale;
  (b) vary the order; or
  (c) revoke the order.

(3) For the purposes of subsection (2) above, the evidence of one witness shall be sufficient evidence.

(4) A fine imposed under this section in respect of a failure to comply with the requirements of a drug treatment and testing order shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by or in respect of a conviction or a penalty imposed on a person summarily convicted.

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234H Disposal on revocation of drugs treatment and testing order.

(1) Where the court revokes a drugs treatment and testing order under section 234E(3)(b), 234F(4) or 234G(2)(c) of this Act, it may dispose of the offender in any way which would have been competent at the time when the order was made.

(2) In disposing of an offender under subsection (1) above, the court shall have regard to the time for which the order has been in operation.

(3) Where the court revokes a drug treatment and testing order as mentioned in subsection (1) above and the offender is subject to—

(a) a probation order, by virtue of section 234J of this Act; or

(b) a restriction of liberty order, by virtue of section 245D of this Act; or

(c) a restriction of liberty order and a probation order, by virtue of the said section 245D,

the court shall, before disposing of the offender under subsection (1) above—

(i) where he is subject to a probation order, discharge that order;

(ii) where he is subject to a restriction of liberty order, revoke that order; and

(iii) where he is subject to both such orders, discharge the probation order and revoke the restriction of liberty order."

Commencement Information

I44 S. 93 wholly in force; S. 93 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

94 Combination of orders.

(1) After section 234H of the 1995 Act there shall be inserted the following section—

"**234J Concurrent drug treatment and testing and probation orders.**

(1) Notwithstanding sections 228(1) and 234B(2) of this Act, where the court considers it expedient that the offender should be subject to a drug treatment and testing order and to a probation order, it may make both such orders in respect of the offender.

(2) In deciding whether it is expedient for it to exercise the power conferred by subsection (1) above, the court shall have regard to the circumstances, including the nature of the offence and the character of the offender and to the report submitted to it under section 234B(3)(b) of this Act.

(3) Where the court makes both a drug treatment and testing order and a probation order by virtue of subsection (1) above, the clerk of the court shall send a copy of each of the orders to the following—

(a) the treatment provider within the meaning of section 234C(1);

(b) the officer of the local authority who is appointed or assigned to be the supervising officer under section 234C(6) of this Act; and

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(c) if he would not otherwise receive a copy of the order, the officer of the local authority who is to supervise the probationer.

(4) Where the offender by an act or omission fails to comply with a requirement of an order made by virtue of subsection (1) above—

(a) if the failure relates to a requirement contained in a probation order and is dealt with under section 232(2)(c) of this Act, the court may, in addition, exercise the power conferred by section 234G(2)(b) of this Act in relation to the drug treatment and testing order; and

(b) if the failure relates to a requirement contained in a drug treatment and testing order and is dealt with under section 234G(2)(b) of this Act, the court may, in addition, exercise the power conferred by section 232(2)(c) of this Act in relation to the probation order.

(5) Where an offender by an act or omission fails to comply with both a requirement contained in a drug treatment and testing order and in a probation order to which he is subject by virtue of subsection (1) above, he may, without prejudice to subsection (4) above, be dealt with as respects that act or omission either under section 232(2) of this Act or under section 234G(2) of this Act but he shall not be liable to be otherwise dealt with in respect of that act or omission."

(2) Schedule 6 to this Act (Part I of which makes further provision in relation to the combination of drug treatment and testing orders with other orders and Part II of which makes provision in relation to appeals) shall have effect.

Commencement Information

I45 S. 94 wholly in force; S. 94 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

95 Interpretation provision in relation to drug treatment and testing orders.

(1) After section 234J of the 1995 Act there shall be inserted the following section—

"**234K Drug treatment and testing orders: interpretation.**

In sections 234B to 234J of this Act—

"the appropriate court" means—

(a) where the drug treatment and testing order has been made by the High Court, that court;

(b) in any other case, the court having jurisdiction in the area of the local authority for the time being specified in the order under section 234C(6) of this Act, being a sheriff or district court according to whether the order has been made by a sheriff or district court, but in a case where an order has been made by a district court and there is no district court in that area, the sheriff court; and

"local authority" means a council constituted under section 2 of the [M48]Local Government etc. (Scotland) Act 1994 and any reference to the

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area of such an authority is a reference to the local government area within the meaning of that Act for which it is so constituted."

(2) In section 307(1) of the 1995 Act (interpretation), after the definition of "diet" there shall be inserted the following definition—

""drug treatment and testing order" has the meaning assigned to it in section 234B(2) of this Act;".

Commencement Information

I46 S. 95 wholly in force; S. 95 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M48 1994 c.39.

Racial aggravation

96 Offences racially aggravated.

(1) The provisions of this section shall apply where it is—

(a) libelled in an indictment; or

(b) specified in a complaint,

and, in either case, proved that an offence has been racially aggravated.

(2) An offence is racially aggravated for the purposes of this section if—

(a) at the time of committing the offence, or immediately before or after doing so, the offender evinces towards the victim (if any) of the offence malice and ill-will based on the victim's membership (or presumed membership) of a racial group; or

(b) the offence is motivated (wholly or partly) by malice and ill-will towards members of a racial group based on their membership of that group,

and evidence from a single source shall be sufficient evidence to establish, for the purposes of this subsection, that an offence is racially aggravated.

(3) In subsection (2)(a) above—

"membership", in relation to a racial group, includes association with members of that group;

"presumed" means presumed by the offender.

(4) It is immaterial for the purposes of paragraph (a) or (b) of subsection (2) above whether or not the offender's malice and ill-will is also based, to any extent, on—

(a) the fact or presumption that any person or group of persons belongs to any religious group; or

(b) any other factor not mentioned in that paragraph.

[F361(5) The court must—

(a) state on conviction that the offence was racially aggravated,

(b) record the conviction in a way that shows that the offence was so aggravated,

(c) take the aggravation into account in determining the appropriate sentence, and

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(d) state—

(i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or

(ii) otherwise, the reasons for there being no such difference.**]**

(6) In this section "racial group" means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

Textual Amendments

F361 S. 96(5) substituted (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp13), {ss. 25(1)}, 206(1); S.S.I. 2010/413, art. 2, **Sch.** (with saving)

Commencement Information

I47 S. 96 wholly in force; S. 96 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Remands and committals

F362 97 Remands and committals of children and young persons.

. . . . . .

Textual Amendments

F362 S. 97 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 40**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

F363 98 Remands and committals: alternative provision for 15 or 16 year old boys.

. . . . . .

Textual Amendments

F363 S. 98 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 40**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

Release and recall of prisoners

99 Power to release short-term prisoners on licence.

F364 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F364 S. 99 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 para. 44(4)(p) (with Sch. 2)

100 Curfew condition to be included in licence.

F365 . . . . . .

Textual Amendments

F365 S. 100 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 para. 44(4)(p) (with Sch. 2)

101 Early release: two or more sentences.

(1) F366 . . . . . .

(2) After subsection (3) of section 34 of the 1997 Act (interpretation of Chapter II) there shall be inserted the following subsection—

"(4) Where a person has been sentenced to one or more life sentences and to one or more terms of imprisonment, nothing in this Chapter shall require the Secretary of State to release the person in respect of any of the life sentences unless and until the Secretary of State is required to release him in respect of each of the terms."

Textual Amendments

F366 S. 101(1) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 para. 44(4)(p) (with Sch. 2)

Commencement Information

I48 S. 101 wholly in force; S. 101 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

F367 102 . . . . . .

Textual Amendments

F367 S. 102 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

103 Recall to prison of short-term prisoners.

F368 . . . . . .

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Textual Amendments

F368 S. 103 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 para. 44(4)(p) (with Sch. 2)

104 Release on licence following recall to prison.

F369 . . . . . .

Textual Amendments

F369 S. 104 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 para. 44(4)(p) (with Sch. 2)

105 Release on licence following return to prison.

F370 . . . . . .

Textual Amendments

F370 S. 105 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 para. 44(4)(p) (with Sch. 2)

Miscellaneous

106 Pre-consolidation amendments.

The enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments there specified, being amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of certain enactments relating to the powers of courts to deal with offenders or defaulters.

Commencement Information

I49 S. 106 wholly in force; S. 106 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

107 Amendments to Chapter I of Part II of 1997 Act.

F371 . . . . . .

Textual Amendments

F371 S. 107 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

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108 Repeal of Chapter I of Part III of Crime and Punishment (Scotland) Act 1997.

F372 . . . . . .

Textual Amendments

F372 S. 108 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

109 Transitional provisions in relation to certain life prisoners.

(1) Section 16 of the [M49]Crime and Punishment (Scotland) Act 1997 (designated life prisoners) shall have effect and shall be deemed always to have had effect with the amendments made by subsections (2) and (3) below.

(2) In subsection (2), at the beginning there shall be inserted the words "Except in a case to which subsection (3A) or (3B) below applies,".

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

"(3A) This subsection applies in a case where a person—

(a) was sentenced, prior to 20 October 1997, in respect of a murder committed by him before he attained the age of 18 years; and

(b) has been released on licence, other than under section 3 of the 1993 Act, whether before or on that date.

(3B) This subsection applies in a case where a person—

(a) was sentenced, prior to 20 October 1997, in respect of a murder committed by him before he attained the age of 18 years; and

(b) has been released on licence, other than under section 3 of the 1993 Act, after that date without his case having been considered under subsection (2) above.

(3C) In a case to which subsection (3A) or (3B) applies, Part I of the 1993 Act shall apply as if the person were a designated life prisoner, within the meaning of section 2 of that Act, whose licence had been granted under subsection (4) of that section on his having served the designated part of his sentence."

(4) Where, prior to the commencement of this section, a certificate has been issued under subsection (2) of section 16 of the [M50]Crime and Punishment (Scotland) Act 1997 in respect of a case to which subsection (3A) of that section applies, the certificate shall be disregarded.

Marginal Citations

M49 1997 c.48.

M50 1997 c.48.

110 Calculation of period of detention at customs office etc. where person previously detained.

In section 24 of the [M51]Criminal Law (Consolidation) (Scotland) Act 1995 (detention and questioning by customs officers), in subsection (4)—

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(a) for the words from "he" to "be" there shall be substituted the words " and is "; and

(b) after the word "detention" there shall be inserted the words " , the period of six hours mentioned in subsection (2) above shall be reduced by the length of that earlier detention ".

Commencement Information

I50 S. 110 wholly in force; S. 110 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M51 1995 c.39.

111 Early release in Scotland: two or more sentences.

(1) After section 1 of the 1993 Act there shall be inserted the following section—

"**1A Application to persons serving more than one sentence.**

Where a prisoner has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term by virtue of section 27(5) of this Act—

(a) nothing in this Part of this Act shall require the Secretary of State to release him in respect of any of the terms unless and until the Secretary of State is required to release him in respect of each of the other terms;

(b) nothing in this Part of this Act shall require the Secretary of State or the Parole Board to consider his release in respect of any of the terms unless and until the Secretary of State or the Parole Board is required to consider his release, or the Secretary of State is required to release him, in respect of each of the other terms; and

(c) where he is released on licence under this Part of this Act, he shall be on a single licence which—

(i) shall (unless revoked) remain in force until the date on which he would (but for his release) have served in full all the sentences in respect of which he has been so released; and

(ii) shall be subject to such conditions as may be specified or required by this Part of this Act in respect of any of the sentences."

(2) After subsection (7) of section 16 of the 1993 Act (orders for return to prison on commission of further offence) there shall be inserted the following subsection—

"(8) Where a prisoner has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term by virtue of section 27(5) of this Act, the date mentioned in subsection (1)(a) above shall be taken to be that on which he would (but for his release) have served all of the sentences in full."

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(3) For subsection (5) of section 27 of the 1993 Act (interpretation of Part I) there shall be substituted the following subsection—

"(5) For the purposes of any reference, however expressed, in this Part of this Act to the term of imprisonment or other detention to which a person has been sentenced or which, or any part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—

(a) the sentences were passed at the same time; or

(b) where the sentences were passed at different times, the person has not been released under this Part of this Act at any time during the period beginning with the passing of the first sentence and ending with the passing of the last."

(4) In sub-paragraph (1) of paragraph 6B of Schedule 6 to the 1993 Act (aggregation of old and new sentences)—

(a) for the words "a prisoner" there shall be substituted the words " an existing prisoner ";

(b) the word "and" after head (a) shall cease to have effect;

(c) in head (b), for the words "that date" there shall be inserted the words " the date on which section 111 of the Crime and Disorder Act 1998 comes into force "; and

(d) after head (b) there shall be inserted the following—

"; and

(c) he has not at any time prior to the passing of the sentence or sentences mentioned in head (b) above been released from the sentence or sentences mentioned in head (a) above under the existing provisions."

(5) After that paragraph there shall be inserted the following paragraph—

"6C (1) This paragraph applies where—

(a) an existing prisoner was, at the relevant date, serving a sentence or sentences of imprisonment, on conviction of an offence, passed before that date;

(b) on or after the date on which section 111 of the Crime and Disorder Act 1998 comes into force he is, or has been, sentenced to a further term or terms of imprisonment on conviction of an offence, to be served wholly or partly concurrently with the sentence or sentences mentioned in head (a); and

(c) the sentences do not fall to be treated as a single term by virtue of paragraph 6B(2)(a) above.

(2) In a case to which this paragraph applies the Secretary of State shall not release, or be required to consider the release of, the prisoner unless and until the requirements for release, or for consideration of his release, of the new and the existing provisions are satisfied in relation to each sentence to which they respectively apply.

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(3) In a case to which this paragraph applies the Parole Board shall not be required to consider the release of the prisoner unless and until the requirements for release, or for consideration for release, of the new and the existing provisions are satisfied in relation to each sentence to which they respectively apply.

(4) In a case to which this paragraph applies, where the prisoner is released on licence, he shall be on a single licence which—

(a) shall (unless revoked) remain in force until the later of—

(i) the date on which he would have been discharged from prison on remission of part of his sentence or sentences under the existing provisions if, after his release, he had not forfeited remission of any part of that sentence under those provisions; or

(ii) the date on which he would (but for his release) have served in full all the sentences in respect of which he was released on licence and which were imposed after the relevant date; and

(b) shall be deemed to be granted under the new provisions and, subject to sub-paragraph (5) below, those provisions so far as relating to conditions of licences, and recall or return to prison, shall apply as they apply in respect of a prisoner on licence in respect of a sentence passed after the relevant date.

(5) In the application of section 16 to a person whose licence is deemed to be granted under the new provisions by virtue of sub-paragraph (4)(b) above, the reference to the original sentence (within the meaning of that section) shall be construed as a reference to the further term or terms mentioned in head (b) of sub-paragraph (1) above."

(6) Subject to subsection (7) below, the amendments made by subsections (1) to (5) above apply where one or more of the sentences concerned was passed after the commencement of this section.

(7) Where the terms of two or more sentences passed before the commencement of this section have been treated, by virtue of section 27(5) of, or paragraph 6B of Schedule 6 to, the 1993 Act, as a single term for the purposes of Part I of that Act, they shall continue to be so treated after that commencement.

(8) In relation to a prisoner released on licence at any time under section 16(7)(b) of the 1993 Act, section 17(1)(a) of that Act shall have effect as if after the word "Act" there were inserted the words " or a short term prisoner has been released on licence by virtue of section 16(7)(b) of this Act ".

Commencement Information

I51 S. 111 wholly in force; s. 111(8) in force at Royal Assent see s. 121(2) S. 111 wholly in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

112 Restriction on consecutive sentences for released prisoners: Scotland.

After section 204 of the 1995 Act there shall be inserted the following section—

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"204A Restriction on consecutive sentences for released prisoners.

A court sentencing a person to imprisonment or other detention shall not order or direct that the term of imprisonment or detention shall commence on the expiration of any other such sentence from which he has been released at any time under the existing or new provisions within the meaning of Schedule 6 to the [M52]Prisoners and Criminal Proceedings (Scotland) Act 1993."

Commencement Information

I52 S. 112 wholly in force; S. 112 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M52 1993 c.9.

113 Deputy authorising officer under Part III of Police Act 1997.

[F373] . . . . . .

Textual Amendments

F373 S. 113 repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174(2), 178(8), Sch. 4 para. 118 {Sch. 17 pt. 2}; S.I. 2006/378, **art. 4(1)**, Sch. paras. 10, 13(gg) (with art. 4(2)-(7))

Supplemental

114 Orders and regulations.

(1) Any power of a Minister of the Crown **[**[F374]or of the National Assembly for Wales**]** to make an order or regulations under this Act—

(a) is exercisable by statutory instrument; and

(b) includes power to make such transitional provision as appears to him necessary or expedient in connection with any provision made by the order or regulations.

(2) A statutory instrument containing an order under section [F375]...**[**[F376]5(1A), (2) or (3)[F377]. . . **[**[F378]10(6), 66C(1) or 66H(e)(vi)**]** above (other than one made by the National Assembly for Wales), or containing**]** regulations under **[**[F379]section 6 or 17A or**]** paragraph 1 of Schedule 3 to this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[[F380](2A) Subsection (2) also applies to a statutory instrument containing—

(a) an order under section 66C(4) unless the order makes provision of the kind mentioned in subsection (3A)(a) below, or

(b) an order under section 66G(5) other than the first such order.**]**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) No order under section **[**[F381]1F,**]**[F382]5(6),**]**[F383]13A(5),**]**[F384]17(4), 38(5), 41(6) **[**[F385], 66A(6)**]** or 115(3)**]** above shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

[[F386](3A) Subsection (3) also applies to—

(a) an order under section 66C(4) which makes provision increasing the figure in section 66C(3) by more than is necessary to reflect changes in the value of money, and

(b) the first order under section 66G(5).**]**

[[F387](4) The Secretary of State must consult the National Assembly for Wales before making an order under section 5(6), 17(4) or 115(3) that relates to a person or body any of whose functions are dischargeable in relation to Wales (not being functions of the kind referred to in section 5(8)).**]**

Textual Amendments

F374 Words in s. 114(1) inserted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(13)(a)**, 108(2)(4); S.I. 2002/2306, **art. 2(f)(viii)**; S.I. 2003/525, **art. 2**

F375 Words in s. 114(2) omitted (23.3.2015) by virtue of Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 29** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(vii)

F376 Words in s. 114(2) substituted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(13)(b)**, 108(2)(4); S.I. 2002/2306, **art. 2(f)(viii)**; S.I. 2003/525, **art. 2**

F377 Words in s. 114(2) repealed (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), Sch. 9 para. 6(2)(a), **Sch. 15 Pt. 3**; S.I. 2007/1614, **art 3(b)(e)(i)**; S.I. 2007/3073, **art. 2(a)(c)(i)**

F378 Words in s. 114(2) substituted (1.2.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 48(1), 153(7), **Sch. 9 para. 4(2)** (with Sch. 27 para. 18); S.I. 2009/140, **art 2(e)(iii)**

F379 Words in s. 114(2) inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 6(2)(b)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

F380 S. 114(2A) inserted (1.2.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 48(1), 153(7), **Sch. 9 para. 4(3)** (with Sch. 27 para. 18); S.I. 2009/140, **art 2(e)(iii)**

F381 Words in s. 114(3) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 142(3)**, 178(8); S.I. 2005/1521, **art. 3(1)(s)**

F382 Words in s. 114(3) inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 6(3)(a)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

F383 Words in s. 114(3) inserted (20.7.2006 in relation to specified areas) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 5**; S.I. 2006/1871, **art. 2**, Sch. (as amended by S.I. 2006/2182, art. 3)

F384 Words in s. 114(3) substituted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 6(3)(b)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

F385 Words in s. 114(3) inserted (1.2.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 48(1), 153(7), **Sch. 9 para. 4(4)** (with Sch. 27 para. 18); S.I. 2009/140, **art 2(e)(iii)**

F386 S. 114(3A) inserted (1.2.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 48(1), 153(7), **Sch. 9 para. 4(5)** (with Sch. 27 para. 18); S.I. 2009/140, **art 2(e)(iii)**

F387 S. 114(4) inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 6(4)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3073, **art. 2(a)**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

115 Disclosure of information.

(1) Any person who, apart from this subsection, would not have power to disclose information—

(a) to a relevant authority; or

(b) to a person acting on behalf of such an authority,

shall have power to do so in any case where the disclosure is necessary or expedient for the purposes of any provision of this Act.

(2) In **[**[F388]this section**]** "relevant authority" means—

(a) the chief officer of police for a police area in England and Wales;

[[F389](b) the chief constable of the Police Service of Scotland;**]**

(c) a **[**[F390]local policing body**]** within the meaning given by section 101(1) of the [M53]Police Act 1996;

(d) a local authority, that is to say—

(i) in relation to England, a county council, a district council, a London borough council **[**[F391], a parish council**]** or the Common Council of the City of London;

(ii) in relation to Wales, a county council **[**[F392], a county borough council or a community council**]**;

(iii) in relation to Scotland, a council constituted under section 2 of the [M54]Local Government etc. (Scotland) Act 1994;

[[F393](dza) a non-profit registered provider of social housing;**]**

[[F394](da) a person registered under section 1 of the Housing Act 1996 as a social landlord;**]**

(e) a **[**[F395]local probation board**]** in England and Wales;

[F396]**[**[F397](ea) . . . . . .**]**

[[F398](eb) probation trust

(ec) a provider of probation services (other than a probation trust or the Secretary of State), in carrying out its statutory functions or activities of a public nature in pursuance of arrangements made under section 3(2) of the Offender Management Act 2007**]**

(f) a **[**[F399]Local Health Board**]**;

[[F400](fa) the National Health Service Commissioning Board;

(fb) a clinical commissioning group;**]**

[F401](g) . . . . . .

[[F402]**[**[F403](h) the London Fire Commissioner;**]**

(i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;

[[F404](ia) a fire and rescue authority created by an order under section 4A of that Act;**]**

(j) a metropolitan county fire and rescue authority.**]**

[[F405](3) The appropriate national authority may by order amend this section so far as it extends to England and Wales by—

(a) adding an entry for any person or body to the list of authorities in subsection (2),

(b) altering or repealing any entry for the time being included in the list, or

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(c) adding, altering or repealing provisions for the interpretation of entries in the list.

(4) In subsection (3) "the appropriate national authority" has the same meaning as in section 5.**]**

Textual Amendments

F388 Words in s. 115(2) substituted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a)(5), **Sch. 9 para. 7(2)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3251, **art. 2**

F389 S. 115(2)(b) substituted (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. 2 para. 30**

F390 Words in s. 115(2)(c) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 99, 157(1), **Sch. 16 para. 238**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (nnn)(iii)

F391 Words in s. 115(2)(d)(i) inserted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(14)(a)**, 108(2)(4); S.I. 2002/2306, **art. 2(f)(viii)**; S.I. 2003/525, **art. 2**

F392 Words in s. 115(2)(d)(ii) substituted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(14)(b)**, 108(2)(4); S.I. 2002/2306, **art. 2(f)(viii)**; S.I. 2003/525, **art. 2**

F393 S. 115(2)(dza) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 5, **Sch. 2 para. 111**

F394 S. 115(2)(da) inserted (E.W.) (18.1.2005) by Housing Act 2004 (c. 34), **ss. 219**, 270(3)(a)

F395 Words in s. 115(2)(e) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 151**; S.I. 2001/919, **art. 2(f)(ii)**

F396 S. 115(2)(ea) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 90(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F397 S. 115(2)(ea) inserted (1.10.2002) by The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (S.I. 2002/2469), reg. 4, **Sch. 1 Pt. 1 para. 25(6)**

F398 S. 115(2)(eb)(ec) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 13(7)**

F399 Words in s. 115(2)(f) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(f)**

F400 S. 115(2)(fa)(fb) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 90(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F401 S. 115(2)(g) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 90(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F402 S. 115(2)(h) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 106**; S.I. 2018/227, **reg. 4(c)**

F403 S. 115(2)(h)-(j) inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a)(5), **Sch. 9 para. 7(2)**; S.I. 2007/1614, **art 3(b)**; S.I. 2007/3251, **art. 2**

F404 S. 115(2)(ia) inserted (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), s. 183(1)(5)(e), **Sch. 1 para. 80**; S.I. 2007/399, reg. 2, Sch. para. 38

F405 S. 115(3)(4) inserted (1.8.2007 for E. and 19.11.2007 for W.) by Police and Justice Act 2006 (c. 48), ss. 22, 53(1)(a), **Sch. 9 para. 7(3)**; S.I. 2007/1614, art. 3(b); S.I. 2007/3073, art. 2(a)

Commencement Information

I53 S. 115 wholly in force; S. 115 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M53 1996 c.16.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

M54 1994 c.39.

116 Transitory provisions.

F406 . . . . . .

Textual Amendments

F406 S. 116 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

117 General interpretation.

(1) In this Act—

"the 1933 Act" means the M55Children and Young Persons Act 1933;

"the 1969 Act" means the M56Children and Young Persons Act 1969;

"the 1973 Act" means the M57Powers of Criminal Courts Act 1973;

"the 1980 Act" means the M58Magistrates' Courts Act 1980;

"the 1982 Act" means the M59Criminal Justice Act 1982;

"the 1984 Act" means the M60Police and Criminal Evidence Act 1984;

"the 1985 Act" means the M61Prosecution of Offences Act 1985;

"the 1989 Act" means the M62Children Act 1989;

"the 1991 Act" means the M63Criminal Justice Act 1991;

"the 1994 Act" means the M64Criminal Justice and Public Order Act 1994;

"the 1997 Act" means the M65Crime (Sentences) Act 1997;

"caution" has the same meaning as in Part V of the M66Police Act 1997;

"child" means a person under the age of 14;

F407 . . . . . .

"custodial sentence" has the same meaning as in **[**F408the Powers of Criminal Courts (Sentencing) Act 2000**]**;

"guardian" has the same meaning as in the 1933 Act;

[F409"local probation board" means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;**]**

"prescribed" means prescribed by an order made by the Secretary of State;

"young person" means a person who has attained the age of 14 and is under the age of 18;

"youth offending team" means a team established under section 39 above.

(2) In this Act—

"the 1993 Act" means the M67Prisoners and Criminal Proceedings (Scotland) Act 1993; and

"the 1995 Act" means the M68Criminal Procedure (Scotland) Act 1995.

(3) For the purposes of this Act, the age of a person shall be deemed to be that which it appears to the court to be after considering any available evidence.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F407 S. 117(1): definition of "commission area" omitted (1.4.2005) by virtue of The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 60**

F408 S. 117(1): words in definition of "custodial sentence" substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 200**

F409 S. 117(1): definition of "local probation board" inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 152**; S.I. 2001/919, **art. 2(f)(ii)**

Marginal Citations

M55 1933 c.12.
M56 1969 c.54.
M57 1973 c.62.
M58 1980 c.43.
M59 1982 c.48.
M60 1984 c.60.
M61 1985 c.23.
M62 1989 c.41.
M63 1991 c.53.
M64 1994 c.33.
M65 1997 c.43.
M66 1997 c.50.
M67 1993 c.9.
M68 1995 c.46.

118 Provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the [M69]Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to those of sections 2 to 4, 34, 47(5), 57, 61 to 64 and 85 above—

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I54 S. 118 wholly in force; S. 118 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M69 1974 c.28.

[F410]119 Minor and consequential amendments.

The enactments mentioned in Schedule 8 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F410 S. 119 wholly in force; S. 119 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

120 Transitional provisions, savings and repeals.

(1) The transitional provisions and savings contained in Schedule 9 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the [M70]Interpretation Act 1978 (which relate to the effect of repeals).

(2) The enactments specified in Schedule 10 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule.

Commencement Information

I55 S. 120 partly in force; S. 120 not in force at Royal Assent see s. 121; S. 120(1)(2) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M70 1978 c.30.

121 Short title, commencement and extent.

(1) This Act may be cited as the Crime and Disorder Act 1998.

(2) This Act, except this section, sections 109 and 111(8) above and paragraphs 55, 99 and 117 of Schedule 8 to this Act, shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes or different areas.

(3) Without prejudice to the provisions of Schedule 9 to this Act, an order under subsection (2) above may make such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with any provision brought into force by the order.

(4) Subject to subsections (5) to (12) below, this Act extends to England and Wales only.

(5) The following provisions extend to Scotland only, namely—
- (a) Chapter II of Part I;
- (b) section 33;
- (c) Chapter II of Part IV;
- (d) sections 108 to 112 and 117(2); and
- (e) paragraphs 55, 70, 71, 98 to 108, 115 to 124 and 140 to 143 of Schedule 8 and section 119 above so far as relating to those paragraphs.

(6) The following provisions also extend to Scotland, namely—
- (a) Chapter III of Part I;
- (b) section 36(3) to (5);
- **[**[F411](bb) sections 52A and 52B;**]**

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[F412](c) . . . . . .

(d) section 115;

(e) paragraph 3 of Schedule 3 to this Act and section 52(6) above so far as relating to that paragraph;

[F413](f) . . . . . .

(g) paragraphs 1, 7(1) and (3), 14(1) and (2), 35, 36, 45, 135, 136 and 138 of Schedule 8 to this Act and section 119 above so far as relating to those paragraphs; and

(h) this section.

(7) Sections 36(1), (2)(a), (b) and (d) and (6)(b) and section 118 above extend to Northern Ireland only.

(8) Section 36(3)(b), (4) and (5) above, paragraphs 7(1) and (3), 45, 135 and 138 of Schedule 8 to this Act, section 119 above so far as relating to those paragraphs and this section also extend to Northern Ireland.

(9) Section 36(5) above, paragraphs 7(1) and (3), 45 and 134 of Schedule 8 to this Act, section 119 above so far as relating to those paragraphs and this section also extend to the Isle of Man.

(10) Section 36(5) above, paragraphs 7(1) and (3), 45 and 135 of Schedule 8 to this Act, section 119 above so far as relating to those paragraphs and this section also extend to the Channel Islands.

(11) The repeals in Schedule 10 to this Act, and section 120(2) above so far as relating to those repeals, have the same extent as the enactments on which the repeals operate.

(12) [F414]. . . and in Schedule 1 to the 1997 Act—

(a) paragraph 14 (restricted transfers between the United Kingdom and the Channel Islands) as applied in relation to the Isle of Man; and

(b) paragraph 19 (application of Schedule in relation to the Isle of Man),

apply to the amendments of that Schedule made by paragraph 135 of Schedule 8 to this Act.

Subordinate Legislation Made

P1 S. 121 power partly exercised (31.7.1998): 1.8.1998 and 7.8.1998 appointed days for specified provisions by S.I. 1998/1883

S. 121 power partly exercised (19.9.1998): differenbt dates appointed for specified provisions by S.I. 1998/2327

S. 121 power partly exercised (21.12.1998): different dates appointed for specified provisions by S.I. 1998/3263

S. 121 power partly exercised (4.5.1999): 1.6.1999 appointed for specified provisions by S.I. 1999/1279, **art. 2**

S. 121 power partly exercised (28.10.1999): 1.11.1999 appointed for specified provisions by S.I. 1999/2976, **art. 2**

S. 121 power partly exercised (15.12.1999): 1.4.2000 appointed for specified provisions by S.I. 1999/3426, **art. 3** (with art. 4)

S. 121 power partly exercised (28.3.2000): different dates appointed for specified provisions by S.I. 2000/924, **arts. 2-5**

S. 121 power partly exercised (15.12.2000): 15.1.2001 appointed for specified provisions by S.I. 2000/3283, **art. 2** (with art. 3)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F411 S. 121(6)(bb) inserted (18.6.2012) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 19(2)(a)**; S.I. 2012/1320, art. 3(d)(iii)

F412 S. 121(6)(c) omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 17** (with s. 135(4)); S.I. 2013/453, art. 4(f)

F413 S. 121(6)(f) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F414 Words in s. 121(12) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 para. 44(4)(p) (with Sch. 2)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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SCHEDULES

SCHEDULE 1

Section 24(4).

SCHEDULE 2A TO THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982

"SCHEDULE 2A

Section 54(2C).

RETENTION AND DISPOSAL OF PROPERTY SEIZED UNDER SECTION 54(2A) OF THIS ACT

Application

1 This schedule applies to property seized under section 54(2A) of this Act.

Retention

2 (1) Subject to sub-paragraph (2) below, property to which this Schedule applies may be retained for a period of twenty-eight days beginning with the day on which it was seized.

(2) Where proceedings for an offence are instituted within the period specified in sub-paragraph (1) above against any person, the property may be retained for a period beginning on the day on which it was seized and ending on the day when—

(a) the prosecutor certifies that the property is not, or is no longer, required as a production in criminal proceedings or for any purpose relating to such proceedings;

(b) the accused in such proceedings—

(i) is sentenced or otherwise dealt with for the offence; or

(ii) is acquitted of the offence; or

(c) the proceedings are expressly abandoned by the prosecutor or are deserted*simpliciter*.

Arrangements for custody of property

3 (1) Subject to the proviso to section 17(3)(b) of the [M71]Police (Scotland) Act 1967 (duty to comply with instructions received from prosecutor), the chief constable shall, in accordance with the provisions of this Schedule, make such arrangements as he considers appropriate for the care, custody, return or disposal of property to which this Schedule applies.

(2) Any reference in this Schedule to property being in the possession of, delivered by or disposed of by, the chief constable includes a reference to its being in the possession of, delivered by or disposed of by, another person under arrangements made under sub-paragraph (1) above.

Disposal

4 Where the period of retention permitted by paragraph 2 above expires and the chief constable has reason to believe that the person from whom the property was seized is

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not the owner or the person having right to possession of it, he shall take reasonable steps to ascertain the identity of the owner or of the person with that right and to notify him of the procedures determined under paragraph 5(1) below.

5 (1) Subject to sub-paragraphs (5) and (6) below, the owner or any person having right to possession of any property to which this Schedule applies and which, at the expiry of the period of retention permitted by paragraph 2 above, is in the possession of the chief constable may at any time prior to its disposal under paragraph 6 below claim that property in accordance with such procedure as the chief constable may determine.

(2) Subject to sub-paragraphs (3), (5) and (6) below, where the chief constable considers that the person making a claim in accordance with the procedure determined under sub-paragraph (1) above is the owner of the property or has a right to possession of it, he shall deliver the property to the claimant.

(3) Subject to sub-paragraph (4) below, the chief constable may impose such conditions connected with the delivery to the claimant of property under sub-paragraph (2) above as he thinks fit and, without prejudice to that generality, such conditions may relate to the payment of such reasonable charges (including any reasonable expenses incurred in relation to the property by or on behalf of him) as he may determine.

(4) No condition relating to the payment of any charge shall be imposed by the chief constable on the owner or person having right of possession of the property where he is satisfied that that person did not know, and had no reason to suspect, that the property to which this Schedule applies was likely to be used in a manner which gave rise to its seizure.

(5) This paragraph does not apply where the period of retention expires in such manner as is mentioned in paragraph 2(2)(b)(i) above and the court by which he was convicted has made a suspended forfeiture order or a restraint order in respect of the property to which this Schedule applies.

(6) This paragraph shall cease to apply where at any time—
- (a) the property to which this Schedule applies—
  - (i) is seized under any other power available to a constable; or
  - (ii) passes into the possession of the prosecutor; or
- (b) proceedings for an offence are instituted, where the property to which this Schedule applies is required as a production.

6 (1) Where this sub-paragraph applies, the chief constable may—
- (a) sell property to which this Schedule applies; or
- (b) if in his opinion it would be impracticable to sell such property, dispose of it.

(2) Sub-paragraph (1) above applies—
- (a) at any time after the expiry of the relevant period where, within that period—
  - (i) no claim has been made under paragraph 5 above; or
  - (ii) any such a claim which has been made has been rejected by the chief constable; and
- (b) where a claim has been made under paragraph 5 above and not determined within the relevant period, at any time after the rejection of that claim by the chief constable.

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(3) In sub-paragraph (2) above, the "relevant period" means a period of six months beginning with the day on which the period of retention permitted by paragraph 2 above expired.

(4) Sections 71, 72 and 77(1) of this Act shall apply to a disposal under this paragraph as they apply to a disposal under section 68 of this Act.

Appeals

7 (1) A claimant under sub-paragraph (2) of paragraph 5 above may appeal to the sheriff against any decision of the chief constable made under that paragraph as respects the claim.

(2) The previous owner of any property disposed of for value under paragraph 6 above may appeal to the sheriff against any decision of the chief constable made under section 72 of this Act as applied by sub-paragraph (4) of that paragraph.

(3) Subsections (3) to (5) of section 76 of this Act shall apply to an appeal under this paragraph as they apply to an appeal under that section.

Interpretation

8 In this Schedule—

"chief constable" means the chief constable for the police area in which the property to which this Schedule applies was seized, and includes a constable acting under the direction of the chief constable for the purposes of this Schedule;

"restraint order" shall be construed in accordance with section 28(1) of the [M72]Proceeds of Crime (Scotland) Act 1995;

"suspended forfeiture order" shall be construed in accordance with section 21(2) of that Act."

Marginal Citations

M71 1967 c.77.

M72 1995 c.43.

SCHEDULE 2

Section 41(11).

THE YOUTH JUSTICE BOARD: FURTHER PROVISIONS

Commencement Information

I56 Sch. 2 wholly in force; Sch. 2 not in force at Royal Assent see s. 121; Sch. 2 paras 1-2 in force for certain purposes at 1.8.1998 by 1998/1883; Sch. 2 in force at 30.9.1998 to the extent that it is not already in force by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

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Membership

1 The Secretary of State shall appoint one of the members of the Board to be their chairman.

Commencement Information

I57 Sch. 2 para. 1 wholly in force; Sch. 2 para. 1 not in force at Royal Assent. In force at 1.8.1998 for the purpose of making appointments under para. 1 of Sch. 2 by S.I. 1998/1883, **art. 2(e)**; wholly in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

2 (1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as a member of the Board, or as chairman of the Board, in accordance with the terms of his appointment.

(2) An appointment as a member of the Board may be full-time or part-time.

(3) The appointment of a person as a member of the Board, or as chairman of the Board, shall be for a fixed period of not longer than five years.

(4) Subject to sub-paragraph (5) below, a person whose term of appointment as a member of the Board, or as chairman of the Board, expires shall be eligible for re-appointment.

(5) No person may hold office as a member of the Board for a continuous period which is longer than ten years.

(6) A person may at any time resign his office as a member of the Board, or as chairman of the Board, by notice in writing addressed to the Secretary of State.

(7) The terms of appointment of a member of the Board, or the chairman of the Board, may provide for his removal from office (without cause being assigned) on notice from the Secretary of State of such length as may be specified in those terms, subject (if those terms so provide) to compensation from the Secretary of State; and in any such case the Secretary of State may remove that member from office in accordance with those terms.

(8) Where—

(a) the terms of appointment of a member of the Board, or the chairman of the Board, provide for compensation on his removal from office in pursuance of sub-paragraph (7) above; and

(b) the member or chairman is removed from office in pursuance of that sub-paragraph,

the Board shall pay to him compensation of such amount, and on such terms, as the Secretary of State may with the approval of the Treasury determine.

(9) The Secretary of State may also at any time remove a person from office as a member of the Board if satisfied—

(a) that he has without reasonable excuse failed to discharge his functions as a member for a continuous period of three months beginning not earlier than six months before that time;

(b) that he has been convicted of a criminal offence;

(c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

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(d) that he is unable or unfit to discharge his functions as a member.

(10) The Secretary of State shall remove a member of the Board, or the chairman of the Board, from office in pursuance of this paragraph by declaring his office as a member of the Board to be vacant and notifying that fact in such manner as the Secretary of State thinks fit; and the office shall then become vacant.

(11) If the chairman of the Board ceases to be a member of the Board he shall also cease to be chairman.

Commencement Information

I58 Sch. 2 para. 2 wholly in force; Sch. 2 para. 2 not in force at Royal Assent. In force at 1.8.1998 for the purpose of making appointments under para. 1 of Sch. 2 by S.I. 1998/1883, **art. 2(e)**. Wholly in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Members and employees

3 (1) The Board shall—

(a) pay to members of the Board such remuneration;

(b) pay to or in respect of members of the Board any such allowances, fees, expenses and gratuities; and

(c) pay towards the provision of pensions to or in respect of members of the Board any such sums,

as the Board are required to pay by or in accordance with directions given by the Secretary of State.

(2) Where a member of the Board was, immediately before becoming a member, a participant in a scheme under section 1 of the [M73]Superannuation Act 1972, the Minister for the Civil Service may determine that his term of office as a member shall be treated for the purposes of the scheme as if it were service in the employment or office by reference to which he was a participant in the scheme; and his rights under the scheme shall not be affected by sub-paragraph (1)(c) above.

(3) Where—

(a) a person ceases to hold office as a member of the Board otherwise than on the expiry of his term of appointment; and

(b) it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation,

the Secretary of State may direct the Board to make to the person a payment of such amount as the Secretary of State may determine.

Commencement Information

I59 Sch. 2 para. 3 wholly in force; Sch. 2 para. 3 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M73 1972 c.11.

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4 (1) The Board may appoint a chief executive and such other employees as the Board think fit, subject to the consent of the Secretary of State as to their number and terms and conditions of service.

(2) The Board shall—

(a) pay to employees of the Board such remuneration; and

(b) pay to or in respect of employees of the Board any such allowances, fees, expenses and gratuities,

as the Board may, with the consent of the Secretary of State, determine.

(3) Employment by the Board shall be included among the kinds of employment to which a scheme under section 1 of the [M74]Superannuation Act 1972 may apply.

Commencement Information

I60 Sch. 2 para. 4 wholly in force; Sch. 2 para. 4 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M74 1972 c.11.

5 The Board shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to paragraph 3(2) or 4(3) above in the sums payable out of money provided by Parliament under the [M75]Superannuation Act 1972.

Commencement Information

I61 Sch. 2 para. 5 wholly in force; Sch. 2 para. 5 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M75 1972 c.11.

House of Commons disqualification

6 In Part II of Schedule 1 to the [M76]House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), there shall be inserted at the appropriate place the following entry— " The Youth Justice Board for England and Wales ".

Commencement Information

I62 Sch. 2 para. 6 wholly in force; Sch. 2 para. 6 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M76 1975 c.24.

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Procedure

7 (1) The arrangements for the procedure of the Board (including the quorum for meetings) shall be such as the Board may determine.

(2) The validity of any proceedings of the Board (or of any committee of the Board) shall not be affected by—

(a) any vacancy among the members of the Board or in the office of chairman of the Board; or

(b) any defect in the appointment of any person as a member of the Board or as chairman of the Board.

Commencement Information

I63 Sch. 2 para. 7 wholly in force; Sch. 2 para. 7 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Annual reports and accounts

8 (1) As soon as possible after the end of each financial year of the Board, the Board shall send to the Secretary of State a report on the discharge of their functions during that year.

(2) The Secretary of State shall lay before each House of Parliament, and cause to be published, a copy of every report sent to him under this paragraph.

Commencement Information

I64 Sch. 2 para. 8 wholly in force; Sch. 2 para. 8 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

9 (1) The Board shall—

(a) keep proper accounts and proper records in relation to the accounts; and

(b) prepare a statement of accounts in respect of each financial year of the Board.

(2) The statement of accounts shall contain such information and shall be in such form as the Secretary of State may, with the consent of the Treasury, direct.

(3) The Board shall send a copy of the statement of accounts to the Secretary of State and to the Comptroller and Auditor General within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on the statement of accounts; and

(b) lay a copy of the statement of accounts and of his report before each House of Parliament.

Commencement Information

I65 Sch. 2 para. 9 wholly in force; Sch. 2 para. 9 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

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10 For the purposes of this Schedule the Board's financial year shall be the period of twelve months ending with 31st March; but the first financial year of the Board shall be the period beginning with the date of establishment of the Board and ending with the first 31st March which falls at least six months after that date.

Commencement Information

I66 Sch. 2 para. 10 wholly in force; Sch. 2 para. 10 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Expenses

11 The Secretary of State shall out of money provided by Parliament pay to the Board such sums towards their expenses as he may determine.

Commencement Information

I67 Sch. 2 para. 11 wholly in force; Sch. 2 para. 11 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

SCHEDULE 3

Section 52(6).

PROCEDURE WHERE PERSONS ARE SENT FOR TRIAL UNDER SECTION 51

Regulations

1 The Attorney General shall by regulations provide that, where a person is sent for trial under section 51 **[**[F415]or 51A**]** of this Act on any charge or charges, copies of the documents containing the evidence on which the charge or charges are based shall, [F416]. . .—

(a) be served on that person; and

(b) be given to the Crown Court sitting at the place specified in the notice under **[**[F417]section 51D(1) of this Act**][**[F418]before the expiry of the period prescribed by the regulations; but the judge may at his discretion extend or further extend that period.**]**.

[[F419](2) The regulations may make provision as to the procedure to be followed on an application for the extension or further extension of a period under sub-paragraph (1) above.**]**

Textual Amendments

F415 Words in Sch. 3 para. 1 inserted (18.5.2012) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 20(2)(a)**; S.I. 2012/1320, art. 2(b)(ii) (with art. 6(1))

F416 Words in Sch. 3 para. 1 repealed (27.9.1999) by virtue of 1999 c. 22, ss. 67(1)(a), 106, 108(3)(b)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**

F417 Words in Sch. 3 para. 1 substituted (18.5.2012) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 20(2)(b)**; S.I. 2012/1320, art. 2(b)(ii) (with art. 6(1))

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F418 Words in Sch. 3 para. 1 inserted (27.9.1999) by virtue of 1999 c. 22, **ss. 67(1)(a)**, 108(3)(b) (with Sch. 14 para. 7(2))

F419 Sch. 3 para. 1(2) substituted (27.9.1999) by 1999 c. 22, **ss. 67(1)(b)**, 108(3)(b) (with Sch. 14 para. 7(2))

Commencement Information

I68 Sch. 3 para. 1 wholly in force; Sch. 3 para. 1 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8) Sch. 3 para. 1 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 1 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Applications for dismissal

2 (1) A person who is sent for trial under section 51 **[**[F420]or 51A**]** of this Act on any charge or charges may, at any time—

(a) after he is served with copies of the documents containing the evidence on which the charge or charges are based; and

(b) before he is arraigned (and whether or not an indictment has been preferred against him),

apply orally or in writing to the Crown Court sitting at the place specified in the notice under **[**[F421]section 51D(1) of this Act**]** for the charge, or any of the charges, in the case to be dismissed.

(2) The judge shall dismiss a charge (and accordingly quash any count relating to it in any indictment preferred against the applicant) which is the subject of any such application if it appears to him that the evidence against the applicant would not be sufficient for **[**[F422]him to be properly convicted**]**.

(3) No oral application may be made under sub-paragraph (1) above unless the applicant has given to the Crown Court sitting at the place in question written notice of his intention to make the application.

[F423](4) . . . . . .

[F423](5) . . . . . .

(6) If the charge, or any of the charges, against the applicant is dismissed—

(a) no further proceedings may be brought on the dismissed charge or charges except by means of the preferment of a voluntary bill of indictment; and

(b) unless the applicant is in custody otherwise than on the dismissed charge or charges, he shall be discharged.

(7) **[**[F424]Criminal Procedure Rules**]** may make provision for the purposes of this paragraph and, without prejudice to the generality of this sub-paragraph, may make provision—

(a) as to the time or stage in the proceedings at which anything required to be done is to be done (unless the court grants leave to do it at some other time or stage);

(b) as to the contents and form of notices or other documents;

(c) as to the manner in which evidence is to be submitted; and

(d) as to persons to be served with notices or other material.

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Textual Amendments

F420 Words in Sch. 3 para. 2(1) inserted (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. 20(3)(a)(i)**; 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); S.I. 2012/2574, art. 2(2)(3), Sch. (with arts. 3, 4) (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. 3, 4)

F421 Words in Sch. 3 para. 2(1) substituted (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. 20(3)(a)(ii)**; 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); S.I. 2012/2574, art. 2(2)(3), Sch. (with arts. 3, 4) (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. 3, 4)

F422 Words in Sch. 3 para. 2(2) substituted (24.7.2006) by Criminal Justice Act 2003 (c. 44), ss. 331, 336(3), **Sch. 36 para. 73**; S.I. 2006/1835 {art. 2(h)}

F423 Sch. 3 para. 2(4)(5) 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. 20(3)(b), **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), Sch. (with arts. 3, 4) (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. 3, 4)

F424 Words in Sch. 3 para. 2(7) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 37(2)** (with art. 2(2))

Commencement Information

I69 Sch. 3 para. 2 wholly in force; Sch. 3 para. 2 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 2 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 2 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Reporting restrictions

3 (1) Except as provided by this paragraph, it shall not be lawful—

(a) to publish in **[**[F425]the United Kingdom**]** a written report of an application under paragraph 2(1) above; or

(b) to include in a relevant programme for reception in **[**[F426]the United Kingdom**]** a report of such an application,

if (in either case) the report contains any matter other than that permitted by this paragraph.

(2) An order that sub-paragraph (1) above shall not apply to reports of an application under paragraph 2(1) above may be made by the judge dealing with the application.

(3) Where in the case of two or more accused one of them objects to the making of an order under sub-paragraph (2) above, the judge shall make the order if, and only if, he is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.

(4) An order under sub-paragraph (2) above shall not apply to reports of proceedings under sub-paragraph (3) above, but any decision of the court to make or not to make such an order may be contained in reports published or included in a relevant programme before the time authorised by sub-paragraph (5) below.

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(5) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an application under paragraph 2(1) above containing any matter other than that permitted by sub-paragraph (8) below where the application is successful.

(6) Where—
- (a) two or more persons were jointly charged; and
- (b) applications under paragraph 2(1) above are made by more than one of them,

sub-paragraph (5) above shall have effect as if for the words "the application is" there were substituted the words " all the applications are ".

(7) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an unsuccessful application at the conclusion of the trial of the person charged, or of the last of the persons charged to be tried.

(8) The following matters may be contained in a report published or included in a relevant programme without an order under sub-paragraph (2) above before the time authorised by sub-paragraphs (5) and (6) above, that is to say—
- (a) the identity of the court and the name of the judge;
- (b) the names, ages, home addresses and occupations of the accused and witnesses;
- **[**[F427](bb) where the application made by the accused under paragraph 2(1) above relates to a charge for an offence in respect of which notice has been given to the court under section 51B of this Act, any relevant business information;**]**
- (c) the offence or offences, or a summary of them, with which the accused is or are charged;
- (d) the names of counsel and solicitors engaged in the proceedings;
- (e) where the proceedings are adjourned, the date and place to which they are adjourned;
- (f) the arrangements as to bail;
- **[**[F428](g) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.**]**

(9) The addresses that may be published or included in a relevant programme under sub-paragraph (8) above are addresses—
- (a) at any relevant time; and
- (b) at the time of their publication or inclusion in a relevant programme.

[[F429](9A) The following is relevant business information for the purposes of sub-paragraph (8) above—
- (a) any address used by the accused for carrying on a business on his own account;
- (b) the name of any business which he was carrying on on his own account at any relevant time;
- (c) the name of any firm in which he was a partner at any relevant time or by which he was engaged at any such time;
- (d) the address of any such firm;
- (e) the name of any company of which he was a director at any relevant time or by which he was otherwise engaged at any such time;
- (f) the address of the registered or principal office of any such company;

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(g) any working address of the accused in his capacity as a person engaged by any such company;

and here "engaged" means engaged under a contract of service or a contract for services.**]**

(10) If a report is published or included in a relevant programme in contravention of this paragraph, the following persons, that is to say—

(a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;

(c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of the editor of a newspaper;

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

(11) Proceedings for an offence under this paragraph shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney General.

(12) Sub-paragraph (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports of court proceedings.

(13) In this paragraph—

"publish", in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;

"relevant programme" means a programme included in a programme service (within the meaning of the [M77]Broadcasting Act 1990);

"relevant time" means a time when events giving rise to the charges to which the proceedings relate occurred.

Textual Amendments

F425 Words in Sch. 3 para. 3(1)(a) substituted (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. 71(a)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F426 Words in Sch. 3 para. 3(1)(b) substituted (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. 71(a)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F427 Sch. 3 para. 3(8)(bb) inserted (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. 71(b)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

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F428 Sch. 3 para. 3(8)(g) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 50**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

F429 Sch. 3 para. 3(9A) inserted (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. 71(c)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

Commencement Information

I70 Sch. 3 para. 3 wholly in force; Sch. 3 para. 3 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 3 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 3 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Marginal Citations

M77 1990 c.42.

Power of justice to take depositions etc.

4 (1) Sub-paragraph (2) below applies where a justice of the peace . . . is satisfied that—

(a) any person in England and Wales ("the witness") is likely to be able to make on behalf of the prosecutor a written statement containing material evidence, or produce on behalf of the prosecutor a document or other exhibit likely to be material evidence, for the purposes of proceedings for an offence for which a person has been sent for trial under section 51 **[**[F430]or 51A**]** of this Act by a magistrates' court [F431]. . . ; and

[[F432](b) it is in the interests of justice to issue a summons under this paragraph to secure the attendance of the witness to have his evidence taken as a deposition or to produce the document or other exhibit.**]**

(2) In such a case the justice shall issue a summons directed to the witness requiring him to attend before a justice at the time and place appointed in the summons, and to have his evidence taken as a deposition or to produce the document or other exhibit.

(3) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in sub-paragraph (1) above, and also that it is probable that a summons under sub-paragraph (2) above would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the witness and to bring him before a justice at the time and place specified in the warrant.

(4) A summons may also be issued under sub-paragraph (2) above if the justice is satisfied that the witness is outside the British Islands, but no warrant may be issued under sub-paragraph (3) above unless the justice is satisfied by evidence on oath that the witness is in England and Wales.

(5) If—

(a) the witness fails to attend before a justice in answer to a summons under this paragraph;

(b) the justice is satisfied by evidence on oath that the witness is likely to be able to make a statement or produce a document or other exhibit as mentioned in sub-paragraph (1)(a) above;

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(c) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons and that a reasonable sum has been paid or tendered to him for costs and expenses; and

(d) it appears to the justice that there is no just excuse for the failure,

the justice may issue a warrant to arrest the witness and to bring him before a justice at the time and place specified in the warrant.

(6) Where—

(a) a summons is issued under sub-paragraph (2) above or a warrant is issued under sub-paragraph (3) or (5) above; and

(b) the summons or warrant is issued with a view to securing that the witness has his evidence taken as a deposition,

the time appointed in the summons or specified in the warrant shall be such as to enable the evidence to be taken as a deposition before the relevant date.

(7) If any person attending or brought before a justice in pursuance of this paragraph refuses without just excuse to have his evidence taken as a deposition, or to produce the document or other exhibit, the justice may do one or both of the following—

(a) commit him to custody until the expiration of such period not exceeding one month as may be specified in the summons or warrant or until he sooner has his evidence taken as a deposition or produces the document or other exhibit;

(b) impose on him a fine not exceeding £2,500.

(8) A fine imposed under sub-paragraph (7) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

(9) If in pursuance of this paragraph a person has his evidence taken as a deposition, the **[**[F433]designated officer for**]** the justice concerned shall as soon as is reasonably practicable send a copy of the deposition to the prosecutor and the Crown Court.

(10) If in pursuance of this paragraph a person produces an exhibit which is a document, the **[**[F433]designated officer for**]** the justice concerned shall as soon as is reasonably practicable send a copy of the document to the prosecutor and the Crown Court.

(11) If in pursuance of this paragraph a person produces an exhibit which is not a document, the **[**[F433]designated officer for**]** the justice concerned shall as soon as is reasonably practicable inform the prosecutor and the Crown Court of that fact and of the nature of the exhibit.

(12) In this paragraph—

"prescribed" means prescribed by **[**[F434]Criminal Procedure Rules**]**;

[[F435]"the relevant date" means the expiry of the period referred to in paragraph 1(1) above.**]**

Textual Amendments

F430 Words in Sch. 3 para. 4(1)(a) inserted (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. 20(4)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

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F431 Words in Sch. 3 para. 4(1) omitted (1.4.2005) by virtue of The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 61(a)**

F432 Sch. 3 para. 4(1)(b) substituted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 169(4)**, 178(8); S.I. 2005/1521, **art. 3(1)(bb)**

F433 Words in Sch. 3 para. 4(9)-(11) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 61(b)**

F434 Words in Sch. 3 para. 4(12) substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, **Sch. para. 37(3)** (with art. 2(2))

F435 Definition in Sch. 3 para. 4(12) substituted (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. 72**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

Commencement Information

I71 Sch. 3 para. 4 wholly in force; Sch. 3 para. 4 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 4 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 4 in force at 15.1.2000 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Use of depositions as evidence

5 (1) Subject to sub-paragraph (3) below, sub-paragraph (2) below applies where in pursuance of paragraph 4 above a person has his evidence taken as a deposition.

(2) Where this sub-paragraph applies the deposition may without further proof be read as evidence on the trial of the accused, whether for an offence for which he was sent for trial under section 51 **[**[F436]or 51A**]** of this Act or for any other offence arising out of the same transaction or set of circumstances.

(3) Sub-paragraph (2) above does not apply if—

(a) it is proved that the deposition was not signed by the justice by whom it purports to have been signed;

(b) the court of trial at its discretion orders that sub-paragraph (2) above shall not apply; or

(c) a party to the proceedings objects to sub-paragraph (2) above applying.

[F437](4) . . . . . .

Textual Amendments

F436 Words in Sch. 3 para. 5(2) inserted (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. 20(5)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F437 Sch. 3 para. 5(4) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 130, 332, 336(3), **Sch. 37 Pt. 6**; S.I. 2005/950, **art. 2**, Sch. 1 paras. 6, 44(3) (with Sch. 2)

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Modifications etc. (not altering text)

C31 Sch. 3 para. 5 excluded (4.4.2005) by Criminal Justice Act 2003 (c. 44), **ss. 84(7)**, 336(3); S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 5 (with Sch. 2)

C32 Sch. 3 para. 5 excluded (4.4.2005) by Criminal Appeal Act 1968 (c. 19), Sch. 2 para. 1(2) (as substituted by Criminal Justice Act 2003 (c. 44), **ss. 131**, 336(3); S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 6 (with Sch. 2))

Commencement Information

I72 Sch. 3 para. 5 wholly in force; Sch. 3 para. 5 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 5 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 5 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Power of Crown Court to deal with summary offence

6 (1) This paragraph applies where a magistrates' court has sent a person for trial under section 51 **[**[F438] or 51A**]** of this Act for offences which include a summary offence.

(2) If the person is convicted on the indictment, the Crown Court shall consider whether the summary offence is related to the **[**[F439]indictable offence for which he was sent for trial or, as the case may be, any of the indictable offences for which he was so sent**]**.

(3) If it considers that the summary offence is so related, the court shall state to the person the substance of the offence and ask him whether he pleads guilty or not guilty.

(4) If the person pleads guilty, the Crown Court shall convict him, but may deal with him in respect of the summary offence only in a manner in which a magistrates' court could have dealt with him.

(5) If he does not plead guilty, the powers of the Crown Court shall cease in respect of the summary offence except as provided by sub-paragraph (6) below.

(6) If the prosecution inform the court that they would not desire to submit evidence on the charge relating to the summary offence, the court shall dismiss it.

(7) The Crown Court shall inform the **[**[F440]**[**[F441]designated officer**]** for**]** the magistrates' court of the outcome of any proceedings under this paragraph.

(8) If the summary offence is one to which section 40 of the [M78]Criminal Justice Act 1988 applies, the Crown Court may exercise in relation to the offence the power conferred by that section; but where the person is tried on indictment for such an offence, the functions of the Crown Court under this paragraph in relation to the offence shall cease.

(9) Where the Court of Appeal allows an appeal against conviction of an **[**[F442] indictable**]** offence which is related to a summary offence of which the appellant was convicted under this paragraph—

(a) it shall set aside his conviction of the summary offence and give the clerk of the magistrates' court notice that it has done so; and

(b) it may direct that no further proceedings in relation to the offence are to be undertaken;

and the proceedings before the Crown Court in relation to the offence shall thereafter be disregarded for all purposes.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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(10) A notice under sub-paragraph (9) above shall include particulars of any direction given under paragraph (b) of that sub-paragraph in relation to the offence.

[F443](11) . . . . . .

(12) An offence is related to another offence for the purposes of this paragraph if it arises out of circumstances which are the same as or connected with those giving rise to the other offence.

Textual Amendments

F438 Words in Sch. 3 para. 6(1) inserted (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. 20(6)(a)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F439 Words in Sch. 3 para. 6(2) substituted (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. 20(6)(b)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F440 Words in Sch. 3 para. 6(7) substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 179(1)(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

F441 Words in Sch. 3 para. 6(7) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 61(c)**

F442 Word in Sch. 3 para. 6(9) substituted (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. 20(6)(c)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F443 Sch. 3 para. 6(11) repealed (1.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(7)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2(c)(ii)** (with Sch. 2 para. 2)

Commencement Information

I73 Sch. 3 para. 6 wholly in force; Sch. 3 para. 6 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 6 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 6 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Marginal Citations

M78 1988 c.33.

Procedure where no indictable-only offence remains

7 (1) Subject to paragraph 13 below, this paragraph applies where—

(a) a person has been sent for trial under section 51 **[**[F444]or 51A**]** of this Act but has not been arraigned; and

(b) the person is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no **[**[F445]main offence**]**.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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(2) Everything that the Crown Court is required to do under the following provisions of this paragraph must be done with the accused present in court.

(3) The court shall cause to be read to the accused each **[**[F446]remaining**]** count of the indictment that charges an offence triable either way.

(4) The court shall then explain to the accused in ordinary language that, in relation to each of those offences, he may indicate whether (if it were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty the court must proceed as mentioned in sub-paragraph (6) below.

(5) The court shall then ask the accused whether (if the offence in question were to proceed to trial) he would plead guilty or not guilty.

(6) If the accused indicates that he would plead guilty the court shall proceed as if he had been arraigned on the count in question and had pleaded guilty.

(7) If the accused indicates that he would plead not guilty, or fails to indicate how he would plead, the court shall **[**[F447]decide**]** whether the offence is more suitable for summary trial or for trial on indictment.

(8) Subject to sub-paragraph (6) above, the following shall not for any purpose be taken to constitute the taking of a plea—

(a) asking the accused under this paragraph whether (if the offence were to proceed to trial) he would plead guilty or not guilty;

(b) an indication by the accused under this paragraph of how he would plead.

[[F448](9) In this paragraph, a "main offence" is—

(a) an offence for which the person has been sent to the Crown Court for trial under section 51(1) of this Act; or

(b) an offence—

(i) for which the person has been sent to the Crown Court for trial under subsection (5) of section 51 or subsection (6) of section 51A of this Act ("the applicable subsection"); and

(ii) in respect of which the conditions for sending him to the Crown Court for trial under the applicable subsection (as set out in paragraphs (a) to (c) of section 51(5) or paragraphs (a) and (b) of section 51A(6)) continue to be satisfied.**]**

Textual Amendments

F444 Words in Sch. 3 para. 7(1)(a) inserted (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. 20(7)(a)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F445 Words in Sch. 3 para. 7(1)(b) substituted (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. 20(7)(b)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F446 Word in Sch. 3 para. 7(3) inserted (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. 20(7)**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c); 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F447 Word in Sch. 3 para. 7(7) substituted (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. 20(7)(d)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F448 Sch. 3 para. 7(9) inserted (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. 20(7)(e)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

Commencement Information

I74 Sch. 3 para. 7 partly in force; Sch. 3 para. 7 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 7 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 7 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

8 (1) Subject to paragraph 13 below, this paragraph applies in a case where—

(a) a person has been sent for trial under section 51 **[**[F449]or 51A**]** of this Act but has not been arraigned;

(b) he is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no **[**[F450]main offence (within the meaning of paragraph 7 above)**]**;

(c) he is represented by a legal representative;

(d) the Crown Court considers that by reason of his disorderly conduct before the court it is not practicable for proceedings under paragraph 7 above to be conducted in his presence; and

(e) the court considers that it should proceed in his absence.

(2) In such a case—

(a) the court shall cause to be read to the representative each **[**[F451]remaining**]** count of the indictment that charges an offence triable either way;

(b) the court shall ask the representative whether (if the offence in question were to proceed to trial) the accused would plead guilty or not guilty;

(c) if the representative indicates that the accused would plead guilty the court shall proceed as if the accused had been arraigned on the count in question and had pleaded guilty;

(d) if the representative indicates that the accused would plead not guilty, or fails to indicate how the accused would plead, the court shall **[**[F452]decide**]** whether the offence is more suitable for summary trial or for trial on indictment.

(3) Subject to sub-paragraph (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—

(a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;

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(b) an indication by the representative under this paragraph of how the accused would plead.

Textual Amendments

F449 Words in Sch. 3 para. 8(1)(a) inserted (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. 20(8)(a)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F450 Words in Sch. 3 para. 8(1)(b) substituted (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. 20(8)(b)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F451 Word in Sch. 3 para. 8(2)(a) inserted (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. 20(8)(c)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F452 Word in Sch. 3 para. 8(2)(d) substituted (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. 20(8)(d)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

Commencement Information

I75 Sch. 3 para. 8 partly in force; Sch. 3 para. 8 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 8 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 8 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

9 (1) This paragraph applies where the Crown Court is required by paragraph 7(7) or 8(2)(d) above to **[**[F453]decide**]** the question whether an offence is more suitable for summary trial or for trial on indictment.

[[F454](2) Before deciding the question, the court—

(a) shall give the prosecution an opportunity to inform the court of the accused's previous convictions (if any); and

(b) shall give the prosecution and the accused an opportunity to make representations as to whether summary trial or trial on indictment would be more suitable.

(3) In deciding the question, the court shall consider—

(a) whether the sentence which a magistrates' court would have power to impose for the offence would be adequate; and

(b) any representations made by the prosecution or the accused under sub-paragraph (2)(b) above,

and shall have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section **[**[F455]122 of the Coroners and Justice Act 2009**]**.

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(4) Where—

(a) the accused is charged on the same occasion with two or more offences; and

(b) it appears to the court that they constitute or form part of a series of two or more offences of the same or a similar character;

sub-paragraph (3)(a) above shall have effect as if references to the sentence which a magistrates' court would have power to impose for the offence were a reference to the maximum aggregate sentence which a magistrates' court would have power to impose for all of the offences taken together.

(5) In this paragraph any reference to a previous conviction is a reference to—

(a) a previous conviction by a court in the United Kingdom, [F456]...

[[F457](aa) a previous conviction by a court in another member State of a relevant offence under the law of that State, or**]**

[[F458](b) a previous conviction of a service offence within the meaning of the Armed Forces Act 2006 ("conviction" here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).**]]**

[[F459](5A) For the purposes of sub-paragraph (5)(aa) an offence is "relevant" if the offence would constitute an offence under the law of any part of the United Kingdom if it were done in that part at the time when the allocation decision is made.**]**

Textual Amendments

F453 Word in Sch. 3 para. 9(1) substituted (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. 20(9)(a)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F454 Sch. 3 para. 9(2)-(5) substituted for Sch. 3 para. 9(2)(3) (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. 20(9)(b)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F455 Words in Sch. 3 para. 9(3) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 177(1), 182(5), Sch. 21 para. 81 (with s. 180); S.I. 2010/816, art. 2, Sch. para. 20(b)

F456 Word in Sch. 3 para. 9(5)(a) repealed (28.5.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(5), Sch. 17 para. 5(2), **Sch. 23 Pt. 5** (with s. 180); S.I. 2013/1104, art. 2(b)

F457 Sch. 3 para. 9(5)(aa) inserted (28.5.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 5(2)** (with s. 180); S.I. 2013/1104, art. 2(b)

F458 Sch. 3 para. 9(5)(b) substituted (28.3.2009 for specified purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), Sch. 16 para. 155; S.I. 2009/812, art. 3(a)(b); S.I. 2009/1167, art. 4

F459 Sch. 3 para. 9(5A) inserted (28.5.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 5(3)** (with s. 180); S.I. 2013/1104, art. 2(b)

Commencement Information

I76 Sch. 3 para. 9 fully in force; Sch. 3 para. 9 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 9 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 9 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

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10 (1) This paragraph applies (unless excluded by paragraph 15 below) where the Crown Court considers that an offence is more suitable for summary trial.

[[F460](2) The court shall explain to the accused in ordinary language—

(a) that it appears to the court more suitable for him to be tried summarily for the offence;

(b) that he can either consent to be so tried or, if he wishes, be tried on indictment; and

(c) in the case of a specified offence (within the meaning of section 224 of the Criminal Justice Act 2003), that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the committing court is of such opinion as is mentioned in subsection (2) of that section.**]**

(3) After explaining to the accused as provided by sub-paragraph (2) above the court shall ask him whether he wishes to be tried summarily or **[**[F462]by a jury**][**[F462]on indictment**]** , and—

(a) if he indicates that he wishes to be tried summarily, shall remit him for trial to a magistrates' court acting for the place where he was sent to the Crown Court for trial;

(b) if he does not give such an indication, shall retain its functions in relation to the offence and proceed accordingly.

Textual Amendments

F460 Sch. 3 para. 10(2) substituted (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. 20(10)(a)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

F461 Words in Sch. 3 para. 10(2) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 201(2)**

F462 Words in Sch. 3 para. 10(3) substituted (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. 20(10)(b)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

Commencement Information

I77 Sch. 3 para. 10 wholly in force; Sch. 3 para. 10 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)**; (subject to savings in arts. 5-8); Sch. 3 para. 10 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 10 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

11 If the Crown Court considers that an offence is more suitable for trial on indictment, the court—

(a) shall tell the accused that it has decided that it is more suitable for him to be tried for the offence **[**[F463]on indictment**]**; and

(b) shall retain its functions in relation to the offence and proceed accordingly.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F463 Words in Sch. 3 para. 11(a) substituted (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. 20(11)**; 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); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (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. 3, 4)

Commencement Information

I78 Sch. 3 para. 11 wholly in force; Sch. 3 para. 11 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 11 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 11 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

[F464]12 . . . . . .

Textual Amendments

F464 Sch. 3 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. 3 para. 20(12), **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), Sch. (with arts. 3, 4) (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. 3, 4)

13 (1) This paragraph applies, in place of paragraphs 7 to 12 above, in the case of a child or young person who—

(a) has been sent for trial under section 51 **[**[F465]or 51A**]** of this Act but has not been arraigned; and

(b) is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no **[**[F466]main offence**]**.

(2) The Crown Court shall remit the child or young person for trial to a magistrates' court acting for the place where he was sent to the Crown Court for trial [F467]. . .

[[F468](3) In this paragraph, a "main offence" is—

(a) an offence for which the child or young person has been sent to the Crown Court for trial under section 51A(2) of this Act; or

(b) an offence—

(i) for which the child or young person has been sent to the Crown Court for trial under subsection (7) of section 51 of this Act; and

(ii) in respect of which the conditions for sending him to the Crown Court for trial under that subsection (as set out in paragraphs (a) and (b) of that subsection) continue to be satisfied.**]**

Textual Amendments

F465 Words in Sch. 3 para. 13(1)(a) inserted (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. 20(13)(a)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I.

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2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3), Sch. (with arts. 3, 4) (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. 3, 4)

F466 Words in Sch. 3 para. 13(1)(b) substituted (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. 20(13)(b)**; 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); S.I. 2012/2574, art. 2(2)(3), Sch. (with arts. 3, 4) (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. 3, 4)

F467 Words in Sch. 3 para. 13(2) 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. 20(13)(c), **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), Sch. (with arts. 3, 4) (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. 3, 4)

F468 Sch. 3 para. 13(3) substituted (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. 20(13)(d)**; 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); S.I. 2012/2574, art. 2(2)(3), Sch. (with arts. 3, 4) (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. 3, 4)

Commencement Information

I79 Sch. 3 para. 13 wholly in force; Sch. 3 para. 13 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 13 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 13 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Procedure for determining whether offences of criminal damage etc. are summary offences

14 (1) This paragraph applies where the Crown Court has to determine, for the purposes of this Schedule, whether an offence which is listed in the first column of Schedule 2 to the 1980 Act (offences for which the value involved is relevant to the mode of trial) is a summary offence.

(2) The court shall have regard to any representations made by the prosecutor or the accused.

(3) If it appears clear to the court that the value involved does not exceed the relevant sum, it shall treat the offence as a summary offence.

(4) If it appears clear to the court that the value involved exceeds the relevant sum, it shall treat the offence as an indictable offence.

(5) If it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum, the court shall ask the accused whether he wishes the offence to be treated as a summary offence.

(6) Where sub-paragraph (5) above applies—

(a) if the accused indicates that he wishes the offence to be treated as a summary offence, the court shall so treat it;

(b) if the accused does not give such an indication, the court shall treat the offence as an indictable offence.

(7) In this paragraph "the value involved" and "the relevant sum" have the same meanings as in section 22 of the 1980 Act (certain offences triable either way to be tried summarily if value involved is small).

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I80 Sch. 3 para. 14 partly in force; Sch. 3 para. 14 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 14 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 14 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Power of Crown Court, with consent of legally-represented accused, to proceed in his absence

15 (1) The Crown Court may proceed in the absence of the accused in accordance with such of the provisions of paragraphs 9 to 14 above as are applicable in the circumstances if—

(a) the accused is represented by a legal representative who signifies to the court the accused's consent to the proceedings in question being conducted in his absence; and

(b) the court is satisfied that there is good reason for proceeding in the absence of the accused.

(2) Sub-paragraph (1) above is subject to the following provisions of this paragraph which apply where the court exercises the power conferred by that sub-paragraph.

(3) If, where the court has **[**[F469]decided**]** as required by paragraph 7(7) or 8(2)(d) above, it appears to the court that an offence is more suitable for summary trial, paragraph 10 above shall not apply and—

(a) if the legal representative indicates that the accused wishes to be tried summarily, the court shall remit the accused for trial to a magistrates' court acting for the place where he was sent to the Crown Court for trial;

(b) if the legal representative does not give such an indication, the court shall retain its functions and proceed accordingly.

(4) If, where the court has **[**[F470]decided**]** as required by paragraph 7(7) or 8(2)(d) above, it appears to the court that an offence is more suitable for trial on indictment, paragraph 11 above shall apply with the omission of paragraph (a).

(5) Where paragraph 14 above applies and it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum, sub-paragraphs (5) and (6) of that paragraph shall not apply and—

(a) the court shall ask the legal representative whether the accused wishes the offence to be treated as a summary offence;

(b) if the legal representative indicates that the accused wishes the offence to be treated as a summary offence, the court shall so treat it;

(c) if the legal representative does not give such an indication, the court shall treat the offence as an indictable offence.

Textual Amendments

F469 Word in Sch. 3 para. 15(3) substituted (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. 20(14)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I.

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3), Sch. (with arts. 3, 4) (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. 3, 4)

F470 Word in Sch. 3 para. 15(4) substituted (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. 20(14)**; 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); S.I. 2012/2574, art. 2(2)(3), Sch. (with arts. 3, 4) (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. 3, 4)

Commencement Information

I81 Sch. 3 para. 15 partly in force; Sch. 3 para. 15 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 3 para. 15 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 3 para. 15 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

[F471]SCHEDULE 4

. . . . . .

Textual Amendments

F471 Sch. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F474]SCHEDULE 5

. . . . . .

Textual Amendments

F474 Sch. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

SCHEDULE 6

Section 94(2).

DRUG TREATMENT AND TESTING ORDERS: AMENDMENT OF THE 1995 ACT

Commencement Information

I82 Sch. 6 wholly in force; Sch. 6 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART I

AMENDMENTS RELATING TO COMBINATION OF ORDERS

1 F484 . . . . . .

Textual Amendments

F484 Sch. 6 para. 1 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp13), ss. 14(2), 206(1), {sch. 2 para. 42}; S.S.I. 2010/413, **art. 2**, Sch.

2 F485 . . . . . .

Textual Amendments

F485 Sch. 6 para. 2 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp13), ss. 14(2), 206(1), {sch. 2 para. 42}; S.S.I. 2010/413, **art. 2**, Sch.

3 For section 245D there shall be substituted the following section—

"**245D Combination of restriction of liberty order with other orders.**

(1) Subsection (3) applies where the court—

(a) intends to make a restriction of liberty order under section 245A(1) of this Act; and

(b) considers it expedient that the offender should also be subject to a probation order made under section 228(1) of this Act or to a drug treatment and testing order made under section 234B(2) of this Act or to both such orders.

(2) In deciding whether it is expedient to make a probation order or a drug treatment and testing order by virtue of paragraph (b) of subsection (1) above, the court shall—

(a) have regard to the circumstances, including the nature of the offence and the character of the offender; and

(b) obtain a report as to the circumstances and character of the offender.

(3) Where this subsection applies, the court, notwithstanding sections 228(1), 234B(2) and 245A(1) of this Act, may make a restriction of liberty order and either or both of a probation order and a drug treatment and testing order.

(4) Where the court makes a restriction of liberty order and a probation order by virtue of subsection (3) above, the clerk of the court shall send a copy of each order to—

(a) any person responsible for monitoring the offender's compliance with the restriction of liberty order; and

(b) the officer of the local authority who is to supervise the probationer.

(5) Where the court makes a restriction of liberty order and a drug treatment and testing order by virtue of subsection (3) above, the clerk of the court shall send a copy of each order to—

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(a) any person responsible for monitoring the offender's compliance with the restriction of liberty order;
(b) the treatment provider, within the meaning of section 234C(1) of this Act; and
(c) the officer of the local authority who is appointed or assigned to be the supervising officer under section 234C(6) of this Act.

(6) Where the court makes a restriction of liberty order, a probation order and a drug treatment and testing order the clerk of the court shall send copies of each of the orders to the persons mentioned—
(a) in subsection (4) above;
(b) in paragraph (b) of subsection (5) above; and
(c) in paragraph (c) of that subsection, if that person would not otherwise receive such copies.

(7) Where the offender by an act or omission fails to comply with a requirement of an order made by virtue of subsection (3) above—
(a) if the failure relates to a requirement contained in a probation order and is dealt with under section 232(2)(c) of this Act, the court may, in addition, exercise the powers conferred by section 234G(2)(b) of this Act in relation to a drug treatment and testing order to which the offender is subject by virtue of subsection (3) above and by section 245F(2) of this Act in relation to the restriction of liberty order;
(b) if the failure relates to a requirement contained in a drug treatment and testing order and is dealt with under section 234G(2)(b) of this Act, the court may, in addition, exercise the powers conferred by section 232(2)(c) of this Act in relation to a probation order to which the offender is subject by virtue of subsection (3) above and by section 245F(2)(b) of this Act in relation to the restriction of liberty order; and
(c) if the failure relates to a requirement contained in a restriction of liberty order and is dealt with under section 245F(2)(b) of this Act, the court may, in addition, exercise the powers conferred by section 232(2)(c) of this Act in relation to a probation order and by section 234G(2)(b) of this Act in relation to a drug treatment and testing order to which, in either case, the offender is subject by virtue of subsection (3) above.

(8) In any case to which this subsection applies, the offender may, without prejudice to subsection (7) above, be dealt with as respects that case under section 232(2) or, as the case may be, section 234G or section 245F(2) of this Act but he shall not be liable to be otherwise dealt with as respects that case.

(9) Subsection (8) applies in a case where—
(a) the offender by an act or omission fails to comply with both a requirement contained in a restriction of liberty order and in a probation order to which he is subject by virtue of subsection (3) above;
(b) the offender by an act or omission fails to comply with both a requirement contained in a restriction of liberty order and in a drug

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treatment and testing order to which he is subject by virtue of subsection (3) above;

(c) the offender by an act or omission fails to comply with a requirement contained in each of a restriction of liberty order, a probation order and a drug treatment and testing order to which he is subject by virtue of subsection (3) above."

4 (1) Section 245G (disposal on revocation of restriction of liberty order) shall be amended as follows.

(2) In subsection (2), for the words from "by" to the end there shall be substituted the words "by virtue of section 245D(3) of this Act, subject to a probation order or a drug treatment and testing order or to both such orders, it shall, before disposing the offender under subsection (1) above—

(a) where he is subject to a probation order, discharge that order;

(b) where he is subject to a drug treatment and testing order, revoke that order; and

(c) where he is subject to both such orders, discharge the probation order and revoke the drug treatment and testing order."

(3) After subsection (2) there shall be added—

"(3) Where the court orders a probation order discharged or a drug treatment and testing order revoked the clerk of the court shall forthwith give copies of that order to the persons mentioned in subsection (4) or, as the case may be, (5) of section 245D of this Act.

(4) Where the court orders a probation order discharged and a drug treatment and testing order revoked, the clerk of the court shall forthwith give copies of that order to the persons mentioned in section 245D(6) of this Act."

PART II

AMENDMENTS RELATING TO APPEALS

5 In section 106 (solemn appeals), in paragraph (d), after the words "probation order" there shall be inserted the words " , drug treatment and testing order ".

6 (1) Section 108 (right of appeal of prosecutor) shall be amended as follows.

(2) In subsection (1), after paragraph (d) there shall be inserted the following paragraph—

"(dd) a drug treatment and testing order;".

(3) In subsection (2)(b)(iii), for the word "or", where it first occurs, there shall be substituted the word " to ".

7 (1) Section 175 (appeals in summary cases) shall be amended as follows.

(2) In subsection (2)(c), after the words "probation order" there shall be inserted the words " , drug treatment and testing order ".

(3) In subsection (4), after paragraph (d) there shall be inserted the following paragraph—

"(dd) a drug treatment and testing order;".

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In subsection (4A)(b)(iii), for the word "or", where it first occurs, there shall be substituted the word " to ".

SCHEDULE 7

Section 106.

PRE-CONSOLIDATION AMENDMENTS: POWERS OF CRIMINAL COURTS

Commencement Information

I83 Sch. 7 wholly in force; Sch. 7 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Children and Young Persons Act 1933 (c.12)

F486 1 . . . . . .

Textual Amendments

F486 Sch. 7 para. 1 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Criminal Justice Act 1967 (c.80)

F487 2 . . . . . .

Textual Amendments

F487 Sch. 7 para. 2 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Children and Young Persons Act 1969 (c.54)

F488 3 . . . . . .

Textual Amendments

F488 Sch. 7 para. 3 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F489 4 . . . . . .

Textual Amendments

F489 Sch. 7 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F490 5 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F490 Sch. 7 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F491]6 . . . . . .

Textual Amendments

F491 Sch. 7 para. 6 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F492]7 . . . . . .

Textual Amendments

F492 Sch. 7 para. 7 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

8 In section 34(1)(c) of the 1969 Act (power of Secretary of State to amend references to young person), the words "7(7), 7(8)," shall cease to have effect.

9 Section 69(5) of the 1969 Act (power to include in commencement order certain consequential provisions) shall cease to have effect.

10 In section 70 of the 1969 Act (interpretation), for subsections (1A) and (1B) there shall be substituted the following subsections—

"(1A) In the case of a child or young person—

(a) whose father and mother were not married to each other at the time of his birth, and

(b) with respect to whom a residence order is in force in favour of the father,

any reference in this Act to the parent of the child or young person includes (unless the contrary intention appears) a reference to the father.

(1B) In subsection (1A) of this section, the reference to a child or young person whose father and mother were not married to each other at the time of his birth shall be construed in accordance with section 1 of the [M79]Family Law Reform Act 1987 and "residence order" has the meaning given by section 8(1) of the [M80]Children Act 1989."

Marginal Citations

M79 1987 c.42.

M80 1989 c.41.

11 In Schedule 6 to the 1969 Act (repeals), the entries relating to sections 55, 56(1) and 59(1) of the 1933 Act (which entries have never come into force or are spent) are hereby repealed.

Criminal Justice Act 1972 (c.71)

12 Section 49 of the Criminal Justice Act 1972 (community service order in lieu of warrant of commitment for failure to pay fine etc.) shall cease to have effect.

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Powers of Criminal Courts Act 1973 (c.62)

F493 13 . . . . . .

Textual Amendments
F493 Sch. 7 para. 13 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F494 14 . . . . . .

Textual Amendments
F494 Sch. 7 para. 14 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F495 15 . . . . . .

Textual Amendments
F495 Sch. 7 para. 15 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F496 16 . . . . . .

Textual Amendments
F496 Sch. 7 para. 16 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

17 Section 11 of the 1973 Act (which is superseded by the paragraph 8A inserted by this Schedule in Schedule 2 to the 1991 Act) shall cease to have effect.

Modifications etc. (not altering text)
C33 Sch. 7 para. 17 excluded (19.9.1998) by S.I. 1998/2327, **art. 6(2)**

F497 18 . . . . . .

Textual Amendments
F497 Sch. 7 para. 18 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F498 19 . . . . . .

Textual Amendments
F498 Sch. 7 para. 19 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F499 20 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F499 Sch. 7 para. 20 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F500 21 . . . . . .

Textual Amendments

F500 Sch. 7 para. 21 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F501 22 . . . . . .

Textual Amendments

F501 Sch. 7 para. 22 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F502 23 . . . . . .

Textual Amendments

F502 Sch. 7 para. 23 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F503 24 . . . . . .

Textual Amendments

F503 Sch. 7 para. 24 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F504 25 . . . . . .

Textual Amendments

F504 Sch. 7 para. 25 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F505 26 . . . . . .

Textual Amendments

F505 Sch. 7 para. 26 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F506 27 . . . . . .

Textual Amendments

F506 Sch. 7 para. 27 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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Magistrates' Courts Act 1980 (c.43)

F507 28 . . . . . .

Textual Amendments
F507 Sch. 7 para. 28 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F508 29 . . . . . .

Textual Amendments
F508 Sch. 7 para. 29 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F509 30 . . . . . .

Textual Amendments
F509 Sch. 7 para. 30 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F510 31 . . . . . .

Textual Amendments
F510 Sch. 7 para. 31 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

32 In section 85(1)(a) of the 1980 Act (power to remit fine), for the words "section 74" there shall be substituted the words " section 77 ".

Criminal Justice Act 1982 (c.48)

F511 33 . . . . . .

Textual Amendments
F511 Sch. 7 para. 33 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F512 34 . . . . . .

Textual Amendments
F512 Sch. 7 para. 34 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F513 35 . . . . . .

Textual Amendments
F513 Sch. 7 para. 35 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F514 36 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
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Textual Amendments
F514 Sch. 7 para. 36 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F515 37 . . . . . .

Textual Amendments
F515 Sch. 7 para. 37 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F516 38 . . . . . .

Textual Amendments
F516 Sch. 7 para. 38 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Criminal Justice Act 1988 (c.33)

39 Paragraph 40 of Schedule 15 to the Criminal Justice Act 1988 (minor and consequential amendments) shall cease to have effect.

Criminal Justice Act 1991 (c.53)

F517 40 . . . . . .

Textual Amendments
F517 Sch. 7 para. 40 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F518 41 . . . . . .

Textual Amendments
F518 Sch. 7 para. 41 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F519 42 . . . . . .

Textual Amendments
F519 Sch. 7 para. 42 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F520 43 . . . . . .

Textual Amendments
F520 Sch. 7 para. 43 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F521 44 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F521 Sch. 7 para. 44 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F522 45 . . . . . .

Textual Amendments

F522 Sch. 7 para. 45 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F523 46 . . . . . .

Textual Amendments

F523 Sch 7 para. 46 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Crime (Sentences) Act 1997 (c.43)

F524 47 . . . . . .

Textual Amendments

F524 Sch 7 para. 47 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F525 48 . . . . . .

Textual Amendments

F525 Sch 7 para. 48 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F526 49 . . . . . .

Textual Amendments

F526 Sch 7 para. 49 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

50 (1) In subsection (2)(a) of section 35 of the 1997 Act (community sentences for fine defaulters), for the words “and (11)” there shall be substituted the words “ , (10) and (11) ”.

F527 (2) . . . . . .

F527 (3) . . . . . .

F527 (4) . . . . . .

F527 (5) . . . . . .

(6) In subsection (10) of that section, for the words “subsection (2)(b)” there shall be substituted the words “ subsection (2)(a) or (b) ”.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F527 Sch. 7 para. 50(2)-(5) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F528 51 . . . . . .

Textual Amendments

F528 Sch. 7 para. 51 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F529 52 . . . . . .

Textual Amendments

F529 Sch. 7 para. 52 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

53 In section 54 of the 1997 Act (general interpretation), after subsection (3) there shall be added the following subsection—

"(4) For the purposes of any provision of this Act which requires the determination of the age of a person by the court, his age shall be deemed to be that which it appears to the court to be after considering any available evidence."

54 In section 55(2) of the 1997 Act (interpretation of minor and consequential amendments), for the words "in any case where" (in both places where they occur) there shall be substituted the word " and ".

SCHEDULE 8

Section 119.

MINOR AND CONSEQUENTIAL AMENDMENTS

Children and Young Persons Act 1933 (c.12)

1 In subsection (4A) of section 49 of the 1933 Act (restrictions on reports of proceedings), for paragraph (e) there shall be substituted the following paragraph—

"(e) where a detention and training order is made, the enforcement of any requirements imposed under section 76(6)(b) of the Crime and Disorder Act 1998."

F530 2 . . . . . .

Textual Amendments

F530 Sch. 8 para. 2 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F531 3 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F531 Sch. 8 para. 3 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F532 4 . . . . . .

Textual Amendments

F532 Sch. 8 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Administration of Justice (Miscellaneous Provisions) Act 1933 (c.36)

5 (1) In subsection (2) of section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 (procedure for indictment of offenders)—

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

"(ac) the person charged has been sent for trial for the offence under section 51 (no committal proceedings for indictable-only offences) of the Crime and Disorder Act 1998 ("the 1998 Act"); or"; and

(b) after paragraph (b) there shall be inserted the words "or

(c) the bill is preferred under section 22B(3)(a) of the M81 Prosecution of Offences Act 1985."

(2) After paragraph (iA) of the proviso to that subsection there shall be inserted the following paragraph—

"(iB) in a case to which paragraph (ac) above applies, the bill of indictment may include, either in substitution for or in addition to any count charging an offence specified in the notice under section 51(7) of the 1998 Act, any counts founded on material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to that Act, was served on the person charged, being counts which may be lawfully joined in the same indictment;".

Commencement Information

I84 Sch. 8 para. 5 wholly in force; Sch. 8 para. 5 not in force at Royal Assent, see s. 121; Sch. 8 para. 5(1)(a)(2) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 5(1)(b) in force at 1.6.1999 by S.I. 1999/1279, **art. 2(f)**; Sch. 8 para. 5(1)(a)(2) in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Marginal Citations

M81 1985 c.23.

Prison Act 1952 (c.52)

6 In subsection (1) of section 43 of the Prison Act 1952 (which enables certain institutions for young offenders to be provided and applies provisions of the Act to them), for paragraph (d) there shall be substituted the following paragraph—

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(d) secure training centres, that is to say places in which offenders in respect of whom detention and training orders have been made under section 73 of the Crime and Disorder Act 1998 may be detained and given training and education and prepared for their release."

7 (1) In subsection (1) of section 49 of that Act (persons unlawfully at large), for the words from "imprisonment" to "secure training centre" there shall be substituted the words " imprisonment or custody for life or ordered to be detained in secure accommodation or in a young offenders institution ".

(2) In subsection (2) of that section—

(a) for the words from "imprisonment" to "secure training centre" there shall be substituted the words " imprisonment, or ordered to be detained in secure accommodation or in a young offenders institution "; and

(b) for the words from "in a prison" to "secure training centre" there shall be substituted the words " in a prison or remand centre, in secure accommodation or in a young offenders institution ".

(3) After subsection (4) of that section there shall be inserted the following subsection—

"(5) In this section "secure accommodation" means—

(a) a young offender institution;

(b) a secure training centre; or

(c) any other accommodation that is secure accommodation within the meaning given by section 75(7) of the Crime and Disorder Act 1998 (detention and training orders)."

Extent Information

E1 Sch.8 para.7(2) extends to England and Wales only, see s. 121(6)(g).

Criminal Procedure (Attendance of Witnesses) Act 1965 (c.69)

F533 8 . . . . . .

Textual Amendments

F533 Sch. 8 para. 8 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. 3, 4) (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. 3, 4)

Criminal Justice Act 1967 (c.80)

F534 9 . . . . . .

Textual Amendments

F534 Sch. 8 para. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F535]10 . . . . . .

Textual Amendments

F535 Sch. 8 para. 10 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

11 At the end of subsection (2) of section 104 of that Act (general provisions as to interpretation) there shall be inserted the words "if—

(a) the sentences were passed on the same occasion; or

(b) where they were passed on different occasions, the person has not been released under Part II of the [M82]Criminal Justice Act 1991 at any time during the period beginning with the first and ending with the last of those occasions."

Commencement Information

I85 Sch. 8 para. 11 wholly in force; Sch. 8 para. 11 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M82 1991 c.53.

Criminal Appeal Act 1968 (c.19)

12 In subsection (2) of section 9 of the Criminal Appeal Act 1968 (appeal against sentence following conviction on indictment), after the words "for either way offence)" there shall be inserted the words " or paragraph 6 of Schedule 3 to the Crime and Disorder Act 1998 (power of Crown Court to deal with summary offence where person sent for trial for indictable-only offence) ".

Commencement Information

I86 Sch. 8 para. 12 wholly in force; Sch. 8 para. 12 not in force at Royal Assent, see s. 121; Sch. 8 para. 12 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 12 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

13 (1) [F536] . . . . . .

(2) In subsection (3) of **[**[F537]section 10 of that Act**]**, after paragraph (c) there shall be inserted the following paragraph—

"(cc) where the court makes such an order with regard to him as is mentioned in section 40(3A) of the Criminal Justice Act 1991."

Textual Amendments

F536 Sch. 8 para. 13(1) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153(7), **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2(u)(xvi)**

F537 Words in Sch. 8 para. 13(2) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153(7), **Sch. 4 para. 50**; S.I. 2009/3074, **art. 2(p)(v)**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I87 Sch. 8 para. 13 wholly in force; Sch. 8 para. 13 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)**(subject to savings in arts. 5-8)

Firearms Act 1968 (c.27)

14 (1) In subsection (2) of section 21 of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime), after the words "a secure training order" there shall be inserted the words " or a detention and training order ".

(2) In subsection (2A) of that section, after paragraph (b) there shall be inserted the following paragraph—

"(c) in the case of a person who has been subject to a detention and 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 77 of the Crime and Disorder Act 1998; or

(iii) the date of the half-way point of the term of the order,

whichever is the later."

15 In subsection (1) of section 52 of that Act (forfeiture and disposal of firearms), for the words "secure training order" there shall be substituted the words " detention and training order ".

Children and Young Persons Act 1969 (c.54)

F538 16 . . . . . .

Textual Amendments

F538 Sch. 8 para. 16 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F539 17 . . . . . .

Textual Amendments

F539 Sch. 8 para. 17 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F540 18 . . . . . .

Textual Amendments

F540 Sch. 8 para. 18 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F541 19 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F541 Sch. 8 para. 19 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F542 20 . . . . . .

Textual Amendments

F542 Sch. 8 para. 20 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F543 21 . . . . . .

Textual Amendments

F543 Sch. 8 para. 21 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

22 In subsection (14) of section 23 of the 1969 Act (remands and committals to local authority accommodation), paragraph (a) shall cease to have effect.

23 In subsection (1) of section 70 of the 1969 Act (interpretation), after the definition of "young person" there shall be inserted the following definition—

> ""youth offending team" means a team established under section 39 of the Crime and Disorder Act 1998."

Commencement Information

I88 Sch. 8 para. 23 partly in force; Sch. 3 para. 23 not in force at Royal Assent see s. 121; Sch. 8 para. 23 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); Sch. 8 para. 23 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, **art. 2**

Superannuation Act 1972 (c.11)

24 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of that Act may apply), at the end of the list of "Other Bodies" there shall be inserted the following entry— " Youth Justice Board for England and Wales. "

Commencement Information

I89 Sch. 8 para. 24 wholly in force; Sch. 8 para. 24 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Powers of Criminal Courts Act 1973 (c.62)

F544 25 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F544 Sch. 8 para. 25 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F545 26 . . . . . .

Textual Amendments

F545 Sch. 8 para. 26 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F546 27 . . . . . .

Textual Amendments

F546 Sch. 8 para. 27 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F547 28 . . . . . .

Textual Amendments

F547 Sch. 8 para. 28 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F548 29 . . . . . .

Textual Amendments

F548 Sch. 8 para. 29 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F549 30 . . . . . .

Textual Amendments

F549 Sch. 8 para. 30 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F550 31 . . . . . .

Textual Amendments

F550 Sch. 8 para. 31 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F551 32 . . . . . .

Textual Amendments

F551 Sch. 8 para. 32 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F552 33 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F552 Sch. 8 para. 33 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F553 34 . . . . . .

Textual Amendments

F553 Sch. 8 para. 34 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Rehabilitation of Offenders Act 1974 (c.53)

F554 35 . . . . . .

Textual Amendments

F554 Sch. 8 para. 35 repealed (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)

36 F555 . . . . . .

Textual Amendments

F555 Sch. 8 para. 36 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141(1), **Sch. 7**; S.I. 2004/874, **art. 2**

Bail Act 1976 (c.63)

F556 37 . . . . . .

Textual Amendments

F556 Sch. 8 para. 37 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. 3, 4) (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. 3, 4)

38 In paragraph 8(1) of Schedule 1 to that Act (persons entitled to bail: supplementary provisions), after the words "subsection (6)(d)" there shall be inserted the words " or (e) ".

Commencement Information

I90 Sch. 8 para. 38 wholly in force; Sch. 8 para. 38 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Magistrates' Courts Act 1980 (c.43)

39 In subsection (3) of section 11 of the 1980 Act (certain sentences and orders not to be made in absence of accused), for the words "secure training order" there shall be substituted the words " detention and training order ".

F557 40 . . . . . .

Textual Amendments

F557 Sch. 8 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. 3, 4) (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. 3, 4)

41 Section 37 of the 1980 Act (committal to Crown Court with a view to greater term of detention in a young offender institution) shall cease to have effect.

F558 42 . . . . . .

Textual Amendments

F558 Sch. 8 para. 42 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 99** Table; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

43 In subsection (2) of section 108 of the 1980 Act (right of appeal to the Crown Court), the words "a probation order or" shall cease to have effect.

Commencement Information

I91 Sch. 8 para. 43 wholly in force; Sch. 8 para. 43 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

F559 44 . . . . . .

Textual Amendments

F559 Sch. 8 para. 44 repealed (19.2.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(8)** (with Sch. 14 paras. 7, 36(9)); S.I. 2001/168, **art. 2(b)(c)**

45 In section 126 of the 1980 Act (execution of certain warrants outside England and Wales)—

(a) the word "and" at the end of paragraph (c) shall cease to have effect;

(b) after that paragraph there shall be inserted the following paragraph—

"(cc) warrants of arrest issued under section 97A above;"; and

(c) after paragraph (d) there shall be inserted the words "; and

(e) warrants of arrest issued under paragraph 4 of Schedule 3 to the Crime and Disorder Act 1998."

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I92 Sch. 8 para. 45 wholly in force; Sch. 8 para. 45 not in force at Royal Assent, see s. 121; Sch. 8 para. 45 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 45 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

F560 46 . . . . . .

Textual Amendments

F560 Sch. 8 para. 46 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Supreme Court Act 1981 (c.54)

F561 47 . . . . . .

Textual Amendments

F561 Sch. 8 para. 47 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

48 In subsection (1)(a) of section 81 of the Supreme Court Act 1981 (bail), after the words "Criminal Justice Act 1987" there shall be inserted the words " or who has been sent in custody to the Crown Court for trial under section 51 of the Crime and Disorder Act 1998 ".

Commencement Information

I93 Sch. 8 para. 48 wholly in force; Sch. 8 para. 48 not in force at Royal Assent, see s. 121; Sch. 8 para. 48 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 48 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Criminal Justice Act 1982 (c.48)

F562 49 . . . . . .

Textual Amendments

F562 Sch. 8 para. 49 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F563 50 . . . . . .

Textual Amendments

F563 Sch. 8 para. 50 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F564 51 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F564 Sch. 8 para. 51 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F565 52 . . . . . .

Textual Amendments

F565 Sch. 8 para. 52 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F566 53 . . . . . .

Textual Amendments

F566 Sch. 8 para. 53 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Mental Health Act 1983 (c.20)

54 In subsection (8) of section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship), for the words from "pass sentence of imprisonment" to "in respect of the offender" there shall be inserted the following paragraphs—

"(a) pass a sentence of imprisonment, impose a fine or make a community order (within the meaning of Part I of the Criminal Justice Act 1991) in respect of the offence; or

(b) make an order under section 58 of that Act (binding over of parent or guardian) in respect of the offender,".

Commencement Information

I94 Sch. 8 para. 54 wholly in force; Sch. 8 para. 54 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Mental Health (Scotland) Act 1984 (c.36)

55 F567 . . . . . .

Textual Amendments

F567 Sch. 8 para. 55 repealed (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(2), 333(3), **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3** (as substituted by S.S.I. 2005/375, art. 2)

Repatriation of Prisoners Act 1984 (c.47)

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

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(i) released on licence under section 33(1)(b), (2) or (3), 33A(2), 34A(3) or 35(1) of the [M83]Criminal Justice Act 1991 or section 28(5) or 29(1) of the [M84]Crime (Sentences) Act 1997;".

Commencement Information

I95 Sch. 8 para. 56 wholly in force; Sch. 8 para. 56 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M83 1991 c.53.
M84 1997 c.43.

57 [F568] . . . . . .

Textual Amendments

F568 Sch. 8 para. 57 repealed (18.12.2003) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(2), **Sch. 37 Pt. 8**

58 (1) Paragraph 2 of the Schedule to that Act as it has effect, and is deemed always to have had effect, by virtue of paragraph 2 of Schedule 2 to the 1997 Act shall be amended as follows.

(2) In sub-paragraph (4), for the definition of "the enactments relating to release on licence" there shall be substituted the following definition—

""the enactments relating to release on licence" means sections 33(1)(b), (2) and (3), 33A(2), 34A(3), 35(1) and 37(1) and (2) of the [M85]Criminal Justice Act 1991 and section 28(5) and (7) of the [M86]Crime (Sentences) Act 1997;".

Commencement Information

I96 Sch. 8 para. 58 wholly in force; Sch. 8 para. 58 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M85 1991 c.53.
M86 1997 c.43.

59 (1) Paragraph 2 of the Schedule to that Act (operation of certain enactments in relation to the prisoner) as it has effect by virtue of paragraph 3 of Schedule 2 to the 1997 Act—

(a) shall have effect in relation to all prisoners repatriated to England and Wales after the commencement of Schedule 2; and

(b) as it so has effect, shall be amended as follows.

(2) In sub-paragraph (2), for the words "34(3) and (5) and 35(1) of the [M87]Criminal Justice Act 1991" there shall be substituted the words " 35(1) of the Criminal Justice Act 1991 and section 28(5) and (7) of the [M88]Crime (Sentences) Act 1997 ".

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In sub-paragraph (4), for the definition of "the enactments relating to release on licence" there shall be substituted the following definition—

""the enactments relating to release on licence" means sections 33(1)(b), (2) and (3), 33A(2), 34A(3), 35(1) and 37(1) and (2) of the [M89]Criminal Justice Act 1991 and section 28(5) and (7) of the [M90]Crime (Sentences) Act 1997;".

Commencement Information

I97 Sch. 8 para. 59 wholly in force; Sch. 8 para. 59 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M87 1991 c.53.
M88 1997 c.43.
M89 1991 c.53.
M90 1997 c.43.

60 [F569] . . . . . .

Textual Amendments

F569 Sch. 8 para. 60 repealed (18.12.2003) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(2), **Sch. 37 Pt. 8**

Police and Criminal Evidence Act 1984 (c.60)

61 [F570] . . . . . .

Textual Amendments

F570 Sch. 8 para. 61 repealed (1.4.2003) by 2001 c. 16, ss. 137, 138(2), **Sch. 7 Pt. 2(1)**; S.I. 2003/708, **art. 2(m)**

62 After section 47 of the 1984 Act there shall be inserted the following section—

"**47A Early administrative hearings conducted by justices' clerks.**

Where a person has been charged with an offence at a police station, any requirement imposed under this Part for the person to appear or be brought before a magistrates' court shall be taken to be satisfied if the person appears or is brought before the clerk to the justices for a petty sessions area in order for the clerk to conduct a hearing under section 50 of the Crime and Disorder Act 1998 (early administrative hearings)."

Commencement Information

I98 Sch. 8 para. 62 wholly in force; Sch. 8 para. 62 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Prosecution of Offences Act 1985 (c.23)

63 In subsection (2) of section 23 of the 1985 Act (discontinuance of proceedings), after paragraph (b) there shall be inserted the following paragraph—

"(c) in the case of any offence, any stage of the proceedings after the accused has been sent for trial under section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only and related offences)."

Commencement Information

I99 Sch. 8 para. 63 wholly in force; Sch. 8 para. 63 not in force at Royal Assent, see s. 121; Sch. 8 para. 63 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 63 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

64 After that section there shall be inserted the following section—

"**23A Discontinuance of proceedings after accused has been sent for trial.**

(1) This section applies where—

(a) the Director of Public Prosecutions, or a public authority (within the meaning of section 17 of this Act), has the conduct of proceedings for an offence; and

(b) the accused has been sent for trial under section 51 of the Crime and Disorder Act 1998 for the offence.

(2) Where, at any time before the indictment is preferred, the Director or authority gives notice under this section to the Crown Court sitting at the place specified in the notice under section 51(7) of the Crime and Disorder Act 1998 that he or it does not want the proceedings to continue, they shall be discontinued with effect from the giving of that notice.

(3) The Director or authority shall, in any notice given under subsection (2) above, give reasons for not wanting the proceedings to continue.

(4) On giving any notice under subsection (2) above the Director or authority shall inform the accused of the notice; but the Director or authority shall not be obliged to give the accused any indication of his reasons for not wanting the proceedings to continue.

(5) The discontinuance of any proceedings by virtue of this section shall not prevent the institution of fresh proceedings in respect of the same offence."

Commencement Information

I100 Sch. 8 para. 64 wholly in force; Sch. 8 para. 64 not in force at Royal Assent, see s. 121; Sch. 8 para. 64 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 64 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

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Criminal Justice Act 1987 (c.38)

F571 65 . . . . . .

Textual Amendments

F571 Sch. 8 para. 65 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. 3, 4) (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. 3, 4)

Criminal Justice Act 1988 (c.33)

66 In subsection (1) of section 40 of the Criminal Justice Act 1988 (power to join in indictment count for common assault etc.), at the end there shall be inserted the words " or are disclosed by material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 (procedure where person sent for trial under section 51), has been served on the person charged ".

Commencement Information

I101 Sch. 8 para. 66 wholly in force; Sch. 8 para. 66 not in force at Royal Assent, see s. 121; Sch. 8 para. 66 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 66 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Legal Aid Act 1988 (c.34)

F572 67 . . . . . .

Textual Amendments

F572 Sch. 8 para. 67 repealed (2.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)** (with Sch. 2 para. 2)

Children Act 1989 (c.41)

68 In subsection (4) of section 8 of the 1989 Act (which defines "family proceedings"), after paragraph (h) there shall be inserted the following paragraph—

"(i) sections 11 and 12 of the Crime and Disorder Act 1998."

Commencement Information

I102 Sch. 8 para. 68 wholly in force; Sch. 8 para. 68 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

F573 69 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F573 Sch. 8 para. 69 omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **162**

Prisons (Scotland) Act 1989 (c.45)

70 (1) Section 16 of the Prisons (Scotland) Act 1989 (discharge of prisoners) which, notwithstanding its repeal by the [M91]Prisoners and Criminal Proceedings (Scotland) Act 1993, is an "existing provision" for the purposes of Schedule 6 to that Act of 1993, shall for those purposes be amended as follows.

(2) In subsection (1), for the words "or Sunday" there shall be substituted the words " Sunday or public holiday ".

(3) At the end there shall be inserted the following subsection—

"(3) For the purposes of this section "public holiday" means any day on which, in the opinion of the Secretary of State, public offices or other facilities likely to be of use to the prisoner in the area in which he is likely to be following his discharge from prison will be closed."

Commencement Information

I103 Sch. 8 para. 70 wholly in force; Sch. 8 para. 70 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M91 1993 c.9.

71 In section 39 of that Act (rules for the management of prisons)—

(a) in subsection (7)—

(i) at the beginning there shall be inserted the words " Subject to subsection (7A) below, ";

(ii) for the words "a short-term or long-term prisoner within the meaning of" there shall be substituted the words " any person who is, or is treated as, a long-term or short-term prisoner for the purposes of any provision of "; and

(iii) the words from "and the foregoing" to the end shall cease to have effect; and

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

"(7A) Additional days shall not be awarded under rules made under subsection (7) above in respect of a sentence where the prisoner has at any time been released on licence, in relation to that sentence, under Part I of the [M92]Prisoners and Criminal Proceedings (Scotland) Act 1993; and any reference to a sentence in such rules shall be construed in accordance with section 27(5) of that Act.

(7B) In the application of subsection (7) above to a prisoner subject to an extended sentence within the meaning of section 210A of the 1995

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Act, the reference to his sentence shall be construed as a reference to the custodial term of that extended sentence."

Commencement Information

I104 Sch. 8 para. 71 wholly in force; Sch. 8 para. 71 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M92 1993 c.9.

Criminal Justice Act 1991 (c.53)

F574 72 . . . . . .

Textual Amendments

F574 Sch. 8 para. 72 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F575 73 . . . . . .

Textual Amendments

F575 Sch. 8 para. 73 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F576 74 . . . . . .

Textual Amendments

F576 Sch. 8 para. 74 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F577 75 . . . . . .

Textual Amendments

F577 Sch. 8 para. 75 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F578 76 . . . . . .

Textual Amendments

F578 Sch. 8 para. 76 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F579 77 . . . . . .

Textual Amendments

F579 Sch. 8 para. 77 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F580]78 . . . . . .

Textual Amendments

F580 Sch. 8 para.78 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

79 (1) In subsection (1)(b) of section 32 of the 1991 Act (Parole Board), for the words "the functions conferred by Part II of the [M93]Crime (Sentences) Act 1997 ("Part II")" there shall be substituted the words " the functions conferred by this Part in respect of long-term and short-term prisoners and by Chapter II of Part II of the Crime (Sentences) Act 1997 ("Chapter II") in respect of life prisoners within the meaning of that Chapter ".

(2) In subsections (3), (4) and (6) of that section, for the words "Part II" there shall be substituted the words " this Part or Chapter II ".

Commencement Information

I105 Sch. 8 para. 79 wholly in force; Sch. 8 para. 79 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M93 1997 c.43.

80 (1) In subsection (3) of section 33 of the 1991 Act (duty to release short-term and long-term prisoners)—

(a) in paragraph (a), for the words "subsection (1)(b) or (2) above or section 35 or 36(1) below" there shall be substituted the words " this Part "; and

(b) in paragraph (b), for the words "38(2) or 39(1)" there shall be substituted the words " 39(1) or (2) ".

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

"(3A) In the case of a prisoner to whom section 44A below applies, it shall be the duty of the Secretary of State to release him on licence at the end of the extension period (within the meaning of section 58 of the Crime and Disorder Act 1998)."

(3) Subsection (4) of that section shall cease to have effect.

Commencement Information

I106 Sch. 8 para. 80 wholly in force; Sch. 8 para. 80 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

81 After that section there shall be inserted the following section—

"**33A Duty to release prisoners: special cases.**

(1) As soon as a prisoner—

(a) whose sentence is for a term of less than twelve months; and

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(b) who has been released on licence under section 34A(3) or 36(1) below and recalled to prison under section 38A(1) or 39(1) or (2) below,

would (but for his release) have served one-half of his sentence, it shall be the duty of the Secretary of State to release him unconditionally.

(2) As soon as a prisoner—

(a) whose sentence is for a term of twelve months or more; and

(b) who has been released on licence under section 34A(3) below and recalled to prison under section 38A(1) below,

would (but for his release) have served one-half of his sentence, it shall be the duty of the Secretary of State to release him on licence.

(3) In the case of a prisoner who—

(a) has been released on licence under this Part and recalled to prison under section 39(1) or (2) below; and

(b) has been subsequently released on licence under section 33(3) or (3A) above and recalled to prison under section 39(1) or (2) below,

section 33(3) above shall have effect as if for the words "three-quarters" there were substituted the words " the whole " and the words "on licence" were omitted."

Commencement Information

I107 Sch. 8 para. 81 wholly in force; Sch. 8 para. 81 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

82 In subsection (1) of section 36 of the 1991 Act (power to release prisoners on compassionate grounds), for word "prisoner" there shall be substituted the words " short-term or long-term prisoner ".

Commencement Information

I108 Sch. 8 para. 82 wholly in force; Sch. 8 para. 82 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

83 (1) In subsection (1) of section 37 of the 1991 Act (duration and conditions of licences) —

(a) for the words "subsection (2)" there shall be substituted the words " subsections (1A), (1B) and (2) "; and

(b) the words "any suspension under section 38(2) below or, as the case may be," shall cease to have effect.

(2) After subsection (1A) of that section there shall be inserted the following subsection—

"(1B) Where a prisoner whose sentence is for a term of twelve months or more is released on licence under section 33A(2) or 34A(3) above, subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the difference between—

(a) that proportion of his sentence; and

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(b) the duration of the curfew condition to which he is or was subject."

(3) In subsection (2) of that section, for the words "section 36(1) above" there shall be substituted the words " section 34A(3) or 36(1) above ".

(4) In subsection (4) of that section—

(a) after the words "a licence" there shall be inserted the words " under this Part "; and

(b) the words "(which shall include on his release conditions as to his supervision by a probation officer)" shall cease to have effect.

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

"(4A) The conditions so specified may in the case of a person released on licence under section 34A above whose sentence is for a term of less than twelve months, and shall in any other case, include on the person's release conditions as to his supervision by—

(a) a probation officer appointed for or assigned to the petty sessions area within which the person resides for the time being; or

(b) where the person is under the age of 18 years, a member of a youth offending team established by the local authority within whose area the person resides for the time being."

(6) For subsection (5) of that section there shall be substituted the following subsection—

"(5) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a long-term prisoner, or vary or cancel any such condition, except after consultation with the Board."

Commencement Information

I109 Sch. 8 para. 83 wholly in force at 1.1.1999; Sch. 8 para. 83 not in force at Royal Assent see s. 121; Sch. 8 para. 83(1)(a)(4)-(6) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8); Sch. 8 para. 83 in force at 1.1.1999 by S.I. 1998/3263, **art. 2**

84 After subsection (5) of section 39 of the 1991 Act (recall of prisoners while on licence) there shall be inserted the following subsection—

"(5A) In the case of a prisoner to whom section 44A below applies, subsections (4)(b) and (5) of that section apply in place of subsection (5) above."

Commencement Information

I110 Sch. 8 para. 84 wholly in force; Sch. 8 para. 84 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

F581 85 . . . . . .

Textual Amendments

F581 Sch. 8 para. 85 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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PROSPECTIVE

F582 86 . . . . . .

Textual Amendments

F582 Sch. 8 para. 86 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 118(5)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

87 (1) In subsection (3) of section 43 of the 1991 Act (young offenders), for the words "subsections (1)" there shall be substituted the words " subsection (1) ".

(2) In subsection (5) of that section, for the words "section 37(4)" there shall be substituted the words " section 37(4A) ".

Commencement Information

I111 Sch. 8 para. 87 wholly in force; Sch. 8 para. 87 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

88 (1) In subsection (1) of section 45 of the 1991 Act (fine defaulters and contemnors), for the words "except sections 35 and 40" there shall be substituted the words " except sections 33A, 34A, 35 and 40 ".

(2) In subsection (3) of that section—

(a) for the words "subsections (1) to (4)" there shall be substituted the words " subsections (1) to (3) "; and

(b) for the words "section 38(2) or 39(1)" there shall be substituted the words " section 39(1) or (2) ".

(3) In subsection (4) of that section—

(a) the words "any suspension under section 38(2) below; or" shall cease to have effect; and

(b) for the words "section 39(1)" there shall be substituted the words " section 39(1) or (2) ".

Commencement Information

I112 Sch. 8 para. 88 wholly in force at 1.1.1999; Sch. 8 para. 88 not in force at Royal Assent see s. 121; Sch. 8 para. 88(1)(2)(3)(b) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8); Sch. 8 para. 88(3)(a) in force at 1.1.1999 by S.I. 1998/3263, **art. 2**

89 In subsection (2) of section 46 of the 1991 Act (persons liable to removal from the United Kingdom), for the words from "section 37(4)" to the end there shall be substituted the words " section 37 above shall have effect as if subsection (4A) were omitted ".

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I113 Sch. 8 para. 89 wholly in force; Sch. 8 para. 89 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

PROSPECTIVE

F583 90 . . . . . .

Textual Amendments

F583 Sch. 8 para. 90 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 118(5)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

91 In section 50 of the 1991 Act (transfer by order of certain functions to Board), for subsection (3) (including that subsection as applied by any order under subsection (1) of that section) there shall be substituted the following subsection—

"(3) In section 37 above, in subsection (5) for the words "after consultation with the Board" there shall be substituted the words " in accordance with recommendations of the Board ", and subsection (6) shall be omitted."

Commencement Information

I114 Sch. 8 para. 91 wholly in force; Sch. 8 para. 91 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

F584 92 . . . . . .

Textual Amendments

F584 Sch. 8 para. 92 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F585 93 . . . . . .

Textual Amendments

F585 Sch. 8 para. 93 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. 3, 4) (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. 3, 4)

94 (1) In subsection (1) of section 65 of the 1991 Act (supervision of young offenders after release), for the words from "a probation officer" to the end there shall be substituted the following paragraphs—

"(a) a probation officer;

(b) a social worker of a local authority social services department; or

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) in the case of a person under the age of 18 years on his release, a member of a youth offending team."

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

"(1A) Where the supervision is to be provided by a probation officer, the probation officer shall be an officer appointed for or assigned to the petty sessions area within which the offender resides for the time being.

(1B) Where the supervision is to be provided by—

(a) a social worker of a local authority social services department; or

(b) a member of a youth offending team,

the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being."

Commencement Information

I115 Sch. 8 para. 94 wholly in force; Sch. 3 para. 94 not in force at Royal Assent see s. 121; Sch. 8 para. 94 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); Sch. 8 para. 94 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, **art. 2**

95 In subsection (1) of section 99 of the 1991 Act (general interpretation), after the definition of "young person" there shall be inserted the following definition—

""youth offending team" means a team established under section 39 of the Crime and Disorder Act 1998."

Commencement Information

I116 Sch. 8 para. 95 wholly in force; Sch. 3 para. 95 not in force at Royal Assent see s. 121; Sch. 8 para. 95 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); Sch. 8 para. 95 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, **art. 2**

[F586]96 . . . . . .

Textual Amendments

F586 Sch. 8 para. 96 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

97 In paragraph 1(2) of Schedule 5 to the 1991 Act (Parole Board: supplementary provisions), for the words "its functions under Part II of this Act" there shall be substituted the following paragraphs—

"(a) its functions under this Part in respect of long-term and short-term prisoners; and

(b) its functions under Chapter II of Part II of the [M94]Crime (Sentences) Act 1997 in respect of life prisoners within the meaning of that Chapter".

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I117 Sch. 8 para. 97 wholly in force; Sch. 8 para. 97 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M94 1997 c.43.

Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)

98 (1) In subsection (1) of section 1 of the 1993 Act (release of short-term, long-term and life prisoners), at the beginning there shall be inserted the words " Subject to section 26A(4) of this Act, ".

(2) In subsection (2) of that section, at the end there shall be added the words " unless he has before that time been so released, in relation to that sentence, under any provision of this Act ".

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

"(3A) Subsections (1) to (3) above are subject to section 1A of this Act."

Modifications etc. (not altering text)

C34 Sch. 8 para. 98(2) restricted (19.9.1998) by S.I. 1998/2327, **art.7(1)**.

Commencement Information

I118 Sch. 8 para. 98 wholly in force; Sch. 8 para. 98 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

99 (1) After subsection (1) of section 4 of the 1993 Act (persons detained under the Mental Health (Scotland) Act 1984) there shall be inserted the following subsection—

"(1A) This Part of this Act shall apply to a person conveyed to and detained in a hospital pursuant to a hospital direction under section 59A of the 1995 Act as if, while so detained, he was serving the sentence of imprisonment imposed on him at the time at which that direction was made."

(2) The amendment made by sub-paragraph (1) above shall be deemed to have had effect from 1 January 1998.

100 In section 5 of the 1993 Act (fine defaulters and persons in contempt of court)—

(a) in subsection (1), for the words "and (3)" there shall be substituted the words " to (4) "; and

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

"(4) Where a person has had imposed on him two or more terms of imprisonment or detention mentioned in subsection (1)(a) or (b) above, sections 1A and 27(5) of this Act shall apply to those terms as if they were terms of imprisonment."

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C35 Sch. 8 para. 100 explained (19.9.1998) by S.I. 1998/2327, **art.7(2)**.

Commencement Information

I119 Sch. 8 para. 100 wholly in force; Sch. 8 para. 100 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

101 In section 7 of the 1993 Act (children detained in solemn proceedings)—

(a) in subsection (1)(b), at the end there shall be added the words " unless he has before that time been so released, in relation to that sentence, under any provision of this Act ";

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

"(2A) This subsection applies where a child detained under section 208 of the 1995 Act is sentenced, while so detained, to a determinate term of detention in a young offenders institution or imprisonment and, by virtue of section 27(5) of this Act, such terms of detention or imprisonment are treated as single term.

(2B) In a case where subsection (2A) applies and the single term mentioned in that subsection is less than four years, the provisions of this section shall apply.

(2C) In a case where subsection (2A) applies and the single term mentioned in that subsection is of four or more years—

(a) section 6 of this Act shall apply to him as if the single term were an equivalent sentence of detention in a young offenders institution, if that term is served in such an institution; and

(b) the provisions of this Act shall apply to him as if the single term were an equivalent sentence of imprisonment, if that term is served in a remand centre or a prison.";

(c) after subsection (4) there shall be inserted the following subsection—

"(4A) Where an order under subsection (3) above is made, the making of the order shall, if there is in force a licence relating to the person in respect of whom the order is made, have the effect of revoking that licence."; and

(d) in subsection (5), after the word "construed" there shall be inserted the words " and sections 1A and 27 shall apply ".

Modifications etc. (not altering text)

C36 Sch. 8 para. 101(a) restricted (19.9.1998) by S.I. 1998/2327, **art.7(3)**.

Commencement Information

I120 Sch. 8 para. 101 wholly in force; Sch. 8 para. 101 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

102 In section 11 of the 1993 Act (duration of licences), subsections (3)(b) and (4) shall cease to have effect.

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Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)
C37 Sch. 8 para. 102 restricted (19.9.1998) by S.I. 1998/2327, **art.7(4)**.

Commencement Information
I121 Sch. 8 para. 102 wholly in force; Sch. 8 para. 102 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

103 In section 14 of the 1993 Act (supervised release of short-term prisoners), subsections (2) and (3) shall cease to have effect.

Modifications etc. (not altering text)
C38 Sch. 8 para. 103 restricted (19.9.1998) by S.I. 1998/2327, **art.8(1)**.

Commencement Information
I122 Sch. 8 para. 103 wholly in force; Sch. 8 para. 103 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

104 (1) In subsection (1) of section 16 of the 1993 Act (orders for return to prison after commission of further offence), after the word "released" there shall be inserted the words " at any time ".

(2) In paragraph (a) of subsection (7) of that section, after the word "shall" there shall be inserted the words " , if the licence is in force when the order is made, ".

(3) Paragraph (b) of that subsection shall cease to have effect.

Modifications etc. (not altering text)
C39 Sch. 8 para. 104(3) restricted (19.9.1998) by S.I. 1998/2327, **art.7(4)**.

Commencement Information
I123 Sch. 8 para. 104 wholly in force; Sch. 8 para. 104 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

105 In section 17 of the 1993 Act (revocation of licence), after subsection (4) there shall be inserted the following subsection—

"(4A) Where the case of a prisoner to whom section 3A of this Act applies is referred to the Parole Board under subsection (3) above, subsection (4) of that section shall apply to that prisoner in place of subsection (4) above."

Commencement Information
I124 Sch. 8 para. 105 wholly in force; Sch. 8 para. 105 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

106 In section 20 of the 1993 Act (Parole Board for Scotland), at the end of subsection (4) there shall be inserted the words— " and rules under this section may make different provision for different classes of prisoner. "

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I125 Sch. 8 para. 106 wholly in force; Sch. 8 para. 106 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

107 After subsection (7) of section 27 of the 1993 Act (interpretation) there shall be inserted the following subsection—

"(8) For the purposes of this section "public holiday" means any day on which, in the opinion of the Secretary of State, public offices or other facilities likely to be of use to the prisoner in the area in which he is likely to be following his discharge from prison will be closed."

Commencement Information

I126 Sch. 8 para. 107 wholly in force; Sch. 8 para. 107 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

108 In Schedule 6 to the 1993 Act (transitional provisions), after paragraph 6C there shall be inserted the following paragraph—

"6D Where a prisoner released on licence is treated by virtue of the provisions of this or any other enactment as a prisoner whose licence was granted under section 2(4) of this Act, the validity of his licence shall not be affected by the absence in the licence of such a condition as is specified in section 12(2) of this Act."

Commencement Information

I127 Sch. 8 para. 108 wholly in force; Sch. 8 para. 108 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Probation Service Act 1993 (c.47)

[F587]109 . . . . . .

Textual Amendments

F587 Sch. 8 para. 109 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[F588]110 . . . . . .

Textual Amendments

F588 Sch. 8 para. 110 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 153, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Criminal Justice and Public Order Act 1994 (c.33)

111 In subsection (3) of section 12 of the 1994 Act (escort arrangements and officers), after the words "secure training orders" there shall be inserted the words " or detention and training orders ".

F589 112 . . . . . .

Textual Amendments

F589 Sch. 8 para. 112 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

113 (1) In sub-paragraph (1) of paragraph 3 of Schedule 2 to the 1994 Act (certification of custody officers: England and Wales)—

(a) in paragraph (b), for the words "person in charge" there shall be substituted the word " monitor "; and

(b) in paragraph (c), for the words "person in charge" there shall be substituted the word " governor ".

(2) In sub-paragraph (2) of that paragraph, for the words "or person in charge" there shall be substituted the words " , monitor or governor ".

Commencement Information

I128 Sch. 8 para. 113 wholly in force; Sch. 8 para. 113 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Drug Trafficking Act 1994 (c.37)

114 F590 . . . . . .

Textual Amendments

F590 Sch. 8 para. 114 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1), **Sch. 12**; S.I. 2003/120 {art. 2(1)}, Sch.

Proceeds of Crime (Scotland) Act 1995 (c.43)

115 F591 . . . . . .

Textual Amendments

F591 Sch. 8 para. 115 ceased to have effect (24.2.2003) and repealed (24.3.2003) by virtue of Proceeds of Crime Act 2002 (c. 29), ss. 456, 457, 458(1), Sch. 11 para. 35, **Sch. 12**; S.I. 2003/120, **art. 2(1)**, Sch.; S.I. 2003/333, **art. 2(1)**, Sch.

116 F592 . . . . . .

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F592 Sch. 8 para. 116 ceased to have effect (24.2.2003) and repealed (24.3.2003) by virtue of Proceeds of Crime Act 2002 (c. 29), ss. 456, 457, 458(1), Sch. 11 para. 35, **Sch. 12**; S.I. 2003/120, **art. 2(1)**, Sch.; S.I. 2003/333, **art. 2(1)**, Sch.

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

117 (1) For section 18(3) of the 1995 Act (prints and samples) there shall be substituted the following subsection—

"(3) Subject to subsection (4) below, all record of any relevant physical data taken from or provided by a person under subsection (2) above, all samples taken under subsection (6) below and all information derived from such samples shall be destroyed as soon as possible following a decision not to institute criminal proceedings against the person or on the conclusion of such proceedings otherwise than with a conviction or an order under section 246(3) of this Act."

(2) The amendment made by sub-paragraph (1) above shall be deemed to have had effect from 1 August 1997.

118 In subsection (3) of section 49 of the 1995 Act (references to children's hearings), in paragraph (b), after the words "the sheriff" there shall be inserted the words " or district ".

Commencement Information

I129 Sch. 8 para. 118 wholly in force; Sch. 8 para. 118 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

119 In section 106(1)(bb) of the 1995 Act (appeals against automatic sentences), which is prospectively inserted by section 18(1) of the [M95]Crime and Punishment (Scotland) Act 1997, for the words "205B(3) or 209(1A)" there shall be substituted the words " or 205B(3) ".

Commencement Information

I130 Sch. 8 para. 119 wholly in force; Sch. 8 para. 119 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M95 1997 c.48.

120 In section 108A of the 1995 Act (prosecutor's right of appeal against refusal to impose automatic sentence), which is prospectively inserted by section 18(2) of the [M96]Crime and Punishment (Scotland) Act 1997, for the words "205B(3) or 209(1A)" there shall be substituted the words " or 205B(3) ".

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I131 Sch. 8 para. 120 wholly in force; Sch. 8 para. 120 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M96 1997 c.48.

121 In section 118(4A) of the 1995 Act (disposal of appeals), which is prospectively inserted by section 18(5) of the [M97]Crime and Punishment (Scotland) Act 1997, in paragraph (c), sub-paragraph (iii) shall cease to have effect.

Commencement Information

I132 Sch. 8 para. 121 wholly in force; Sch. 8 para. 121 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M97 1997 c.48.

122 In section 167 of the 1995 Act (findings and sentences in summary proceedings), in subsection (7), at the beginning there shall be inserted the words " Subject to section 204A of this Act, ".

Commencement Information

I133 Sch. 8 para. 122 wholly in force; Sch. 8 para. 122 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

123 In subsection (5C) of section 175 of the 1995 Act (right of appeal in summary proceedings), the words "paragraph (a) of" shall be omitted.

Commencement Information

I134 Sch. 8 para. 123 wholly in force; Sch. 8 para. 123 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

124 In subsection (1) of section 307 of the 1995 Act (interpretation), in the definition of "officer of law"—

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

"(ba) any person commissioned by the Commissioners of Customs and Excise;"; and

(b) in paragraph (e), for the words "class or persons" there shall be substituted the words " class of persons ".

Commencement Information

I135 Sch. 8 para. 124 wholly in force; Sch. 8 para. 124 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Criminal Procedure and Investigations Act 1996 (c.25)

125 In subsection (2) of section 1 of the Criminal Procedure and Investigations Act 1996 (application of Part I of that Act)—

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

"(cc) a person is charged with an offence for which he is sent for trial under section 51 (no committal proceedings for indictable-only offences) of the Crime and Disorder Act 1998,"; and

(b) at the end there shall be inserted the words "or

(f) a bill of indictment charging a person with an indictable offence is preferred under section 22B(3)(a) of the [M98]Prosecution of Offences Act 1985."

Commencement Information

I136 Sch. 8 para. 125 wholly in force; Sch. 8 para. 125 not in force at Royal Assent, see s. 121; Sch. 8 para. 125(a) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 125(b) in force at 1.6.1999 by S.I. 1999/1279, **art. 2(f)**; Sch. 8 para. 125(a) in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Marginal Citations

M98 1985 c.23.

126 In section 5 of that Act (compulsory disclosure by accused), after subsection (3) there shall be inserted the following subsection—

"(3A) Where this Part applies by virtue of section 1(2)(cc), this section does not apply unless—

(a) copies of the documents containing the evidence have been served on the accused under regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998; and

(b) a copy of the notice under subsection (7) of section 51 of that Act has been served on him under that subsection."

Commencement Information

I137 Sch. 8 para. 126 partly in force; Sch. 8 para. 126 not in force at Royal Assent, see s. 121; Sch. 8 para. 126 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 126 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

127 In subsection (1) of section 13 of that Act (time limits: transitional)—

[F593](a) . . . . . .

(b) after the words "section 1(2)(e)" there shall be inserted the words " or (f) ".

Textual Amendments

F593 Sch. 8 para. 127(a) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. III** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I138 Sch. 8 para. 127 partly in force; Sch. 8 para. 127 not in force at Royal Assent, see s. 121; Sch. 8 para. 127(a) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 127(b) in force at 1.6.1999 by S.I. 1999/1279, **art. 2(f)**

128 In subsection (1)(a) of section 28 of that Act (introduction to Part III), after the words "committed for trial" there shall be inserted the words " , or sent for trial under section 51 of the Crime and Disorder Act 1998, ".

Commencement Information

I139 Sch. 8 para. 128 wholly in force; Sch. 8 para. 128 not in force at Royal Assent, see s. 121; Sch. 8 para. 128 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 128 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

129 In subsection (1) of section 39 of that Act (meaning of pre-trial hearing), after the words "committed for trial for the offence concerned" there shall be inserted the words " , after the accused has been sent for trial for the offence under section 51 of the Crime and Disorder Act 1998, ".

Commencement Information

I140 Sch. 8 para. 129 wholly in force; Sch. 8 para. 129 not in force at Royal Assent, see s. 121; Sch. 8 para. 129 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, **art. 4(2)**; Sch. 8 para. 129 in force to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Crime (Sentences) Act 1997 (c.43)

130 (1) In subsection (3) of section 28 of the 1997 Act (duty to release certain life prisoners), after paragraph (b) there shall be inserted the words "and

(c) the provisions of this section as compared with those of sections 33(2) and 35(1) of the [M99]Criminal Justice Act 1991 ("the 1991 Act")".

(2) In subsection (7) of that section, in paragraph (c), for the words from "the time when" to the end there shall be substituted the words " he has served one-half of that sentence ".

Commencement Information

I141 Sch. 8 para. 130 wholly in force; Sch. 8 para. 130 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M99 1991 c. 53.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

131 (1) In subsection (2) of section 31 of the 1997 Act (duration and conditions of licences), the words "(which shall include on his release conditions as to his supervision by a probation officer)" shall cease to have effect.

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

"(2A) The conditions so specified shall include on the prisoner's release conditions as to his supervision by—

(a) a probation officer appointed for or assigned to the petty sessions area within which the prisoner resides for the time being;

(b) where the prisoner is under the age of 22, a social worker of the social services department of the local authority within whose area the prisoner resides for the time being; or

(c) where the prisoner is under the age of 18, a member of a youth offending team established by that local authority under section 39 of the Crime and Disorder Act 1998."

(3) In subsection (6) of that section, for the words "section 24(2) above" there shall be substituted the words " section 46(3) of the 1991 Act ", and for the words "the words in parentheses" there shall be substituted the words " subsection (2A) above ".

Commencement Information

I142 Sch. 8 para. 131 wholly in force; Sch. 8 para. 131 not in force at Royal Assent see s. 121; Sch, 8 para. 131(3) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8); Sch. 8 para. 131(1)(2) in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); Sch. 8 para. 131(1)(2) in force 1.4.2000 to the extent that they are not already in force by S.I. 2000/924, **art. 2**

132 (1) In subsection (1) of section 35 of the 1997 Act (fine defaulters: general), for the words "the 1980 Act" there shall be substituted the [M100]words " the Magistrates' Courts Act 1980 ("the 1980 Act") ".

[F594](2) . . . . . .

[F594](3) . . . . . .

Textual Amendments

F594 Sch. 8 para. 132(2)(3) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Commencement Information

I143 Sch. 8 para. 132 wholly in force; Sch. 8 para. 132 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M100 1980 c.43.

133 In section 54 of the 1997 Act (general interpretation), subsection (2) shall cease to have effect.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I144 Sch. 8 para. 133 wholly in force; Sch. 8 para. 133 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

134 Subsection (5)(b) of section 57 of the 1997 Act (short title, commencement and extent) shall have effect as if the reference to the Channel Islands included a reference to the Isle of Man.

Extent Information

E2 Sch. 8 para. 134 extends to Isle of Man, see s. 121(9)

Commencement Information

I145 Sch. 8 para. 134 wholly in force; Sch. 8 para. 134 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

135 (1) Schedule 1 to the 1997 Act (transfer of prisoners within the British Islands) shall be amended as follows.

(2) In sub-paragraph (3) of paragraph 6—

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

"(aa) in relation to a person who is supervised in pursuance of a detention and training order, being ordered to be detained for any failure to comply with requirements under section 76(6)(b) of the Crime and Disorder Act 1998;"; and

(b) in paragraph (b), for the words "recalled to prison under the licence" there shall be substituted the words " recalled or returned to prison ".

(3) In paragraph 8—

(a) in sub-paragraph (2), for the words from "sections 10" to "27 of this Act" there shall be substituted the words " sections 33 to 39, 41 to 46 and 65 of the 1991 Act, paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act and sections 75 to 77 of the Crime and Disorder Act 1998 ";

(b) in sub-paragraph (4), for the words from "sections 16" to "27 of this Act" there shall be substituted the words " sections 37 to 39, 43 to 46 and 65 of the 1991 Act, paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act and sections 76 and 77 of the Crime and Disorder Act 1998 ";

(c) in sub-paragraph (5), after the words "Any provision of" there shall be inserted the words " Part II of the 1991 Act or "; and

(d) after sub-paragraph (5) there shall be inserted the following sub-paragraphs—

"(6) Section 41 of the 1991 Act, as applied by sub-paragraph (2) or (4) above, shall have effect as if section 67 of the [M101]Criminal Justice Act 1967 (computation of sentences of imprisonment passed in England and Wales) or, as the case may require, section 9 of this Act extended to Scotland.

(7) Section 65(7)(b) of the 1991 Act, as applied by sub-paragraph (2) or (4) above, shall have effect as if the reference to a young offender institution were a reference to a young offenders institution."

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In paragraph 9—

(a) in sub-paragraph (1), paragraph (a) and, in paragraph (b), the words "to that and" shall cease to have effect;

(b) in sub-paragraph (2), for the words from "sections 10" to "27 of this Act" there shall be substituted the words " sections 33 to 46 and 65 of the 1991 Act, paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act and sections 75 to 77 of the Crime and Disorder Act 1998 ";

(c) in sub-paragraph (4), for the words from "section 16" to "27 of this Act" there shall be substituted the words " sections 37 to 40A, 43 to 46 and 65 of the 1991 Act, paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act and sections 76 and 77 of the Crime and Disorder Act 1998 ";

(d) sub-paragraph (5) shall cease to have effect;

(e) in sub-paragraph (6), after the words "Any provision of" there shall be inserted the words " Part II of the 1991 Act or "; and

(f) after sub-paragraph (6) there shall be inserted the following sub-paragraphs—

"(7) Section 41 of the 1991 Act, as applied by sub-paragraph (2) or (4) above, shall have effect as if section 67 of the [M102]Criminal Justice Act 1967 or, as the case may require, section 9 of this Act extended to Northern Ireland.

(8) Section 65(7)(b) of the 1991 Act, as applied by sub-paragraph (1), (2) or (4) above, shall have effect as if the reference to a young offender institution were a reference to a young offenders centre."

(5) In paragraph 10—

(a) in sub-paragraph (2)(a)—

(i) for the words from "sections" to " "1997 Act")" there shall be substituted the words " sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the [M103]Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act") "; and

(ii) after the word "3," there shall be inserted words " 6(1)(b)(i) and (iii) ";

(b) in sub-paragraph (2)(b), for the words "sub-paragraphs (3) and (4)" there shall be substituted the words " sub-paragraph (3) ";

(c) sub-paragraph (4) shall cease to have effect;

(d) in sub-paragraph (5)(a), for the words from "sections 15" to "37 of the 1997 Act" there shall be substituted the words " sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ";

(e) for sub-paragraph (6)(b) there shall be substituted the following sub-paragraph—

"(b) in the said sub-paragraph (2) the reference to section 6(1)(b)(i) of the 1993 Act is a reference to that provision so far as it relates to a person sentenced under section 205(3) of the [M104]Criminal Procedure (Scotland) Act 1995."; and

(f) for sub-paragraph (7) there shall be substituted the following sub-paragraph—

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(7) Any provision of Part I of the 1993 Act which is applied by sub-paragraph (2) or (5) above shall have effect (as so applied) as if any reference to a chief social work officer were a reference to a chief social worker of a local authority social services department."

(6) In paragraph 11—

(a) in sub-paragraph (2)(a)—

(i) for the words from "sections" to " "1997 Act")" there shall be substituted the words " sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act "; and

(ii) after the word "3," there shall be inserted the words " 6(1)(b)(i) and (iii), ";

(b) in sub-paragraph (4)(a), for the words from "sections 15" to "37 of the 1997 Act" there shall be substituted the words " sections 1A, 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ";

(c) in sub-paragraph (5), for the words "Sub-paragraph (5)" there shall be substituted the words " Sub-paragraph (6) "; and

(d) in sub-paragraph (6), the words "or Part III of the 1997 Act" shall cease to have effect and, in the Table, for the entry relating to the expression "young offenders institution" there shall be substituted the following entry—

"Probation officer appointed for or assigned to such petty sessions area	Probation Officer appointed by the Probation Board for Northern Ireland".

(7) In sub-paragraph (5) of paragraph 12, in the Table, the entry relating to the expression "Prison rules" shall cease to have effect.

(8) In sub-paragraph (5) of paragraph 13, in the Table, the entry relating to the expression "Prison rules" shall cease to have effect.

(9) In sub-paragraph (1)(a) of paragraph 17 (prisoners unlawfully at large), after the words "section 49(1)" there shall be inserted the words " and (5) ".

(10) In sub-paragraph (1) of paragraph 20, in the definition of "supervision", after the word "purpose" there shall be inserted the words " or a detention and training order ".

Commencement Information

I146 Sch. 8 para. 135 wholly in force at 1.4.2000; Sch. 8 para. 135 not in force at Royal Assent see s. 121; Sch. 8 para. 135(1)(2)(b)(3)-(8) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8); Sch. 8 para. 135(2)(a)(9)(10) in force at 1.4.2000 by S.I. 1999/3426, **art. 3(b)**

Marginal Citations

M101 1967 c.80.
M102 1967 c.80.
M103 1993 c.9.
M104 1995 c.46.

136 In Schedule 2 to the 1997 Act (repatriation of prisoners to the British Islands), paragraphs 4 and 8 are hereby repealed.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I147 Sch. 8 para.136 wholly in force; Sch. 8 para. 136 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

137 In Schedule 4 to the 1997 Act (minor and consequential amendments), the following provisions are hereby repealed, namely—

(a) in paragraph 6, sub-paragraph (1)(b);

(b) paragraphs 9 and 11; and

(c) in paragraph 12, sub-paragraph (4).

Commencement Information

I148 Sch. 8 para. 137 wholly in force; Sch. 8 para. 137 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

138 (1) In Schedule 5 to the 1997 Act (transitional provisions and savings), paragraphs 1 to 4 and 6 are hereby repealed and the following provisions shall cease to have effect, namely—

(a) paragraph 5(2);

(b) paragraphs 8, 9(1) and 10(1);

(c) in paragraph 11, sub-paragraph (1), in sub-paragraph (2)(c), the words "or Part III of the 1997 Act" and, in sub-paragraph (3), the words from the beginning to "1995; and"; and

(d) in paragraph 12, sub-paragraph (1) and, in sub-paragraph (2)(c), the words "or Part III of the 1997 Act".

(2) In paragraph 11(2) of that Schedule—

(a) in paragraph (a)—

(i) for the words from "sections 15" to "1997 Act" there shall be substituted the words " sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the [M105]Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act") "; and

(ii) for the words "the 1989 Act" there shall be substituted the [M106]words " the Prisons (Scotland) Act 1989 ("the 1989 Act") "; and

(b) in paragraph (b), for the words from "sections 15" to "1997 Act" there shall be substituted the words " sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ".

(3) In paragraph 12(2) of that Schedule—

(a) in paragraph (a)—

(i) for the words from "sections 15" to "1997 Act" there shall be substituted the words " sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the [M107]Prisoners and Criminal Proceedings (Scotland) Act ("the 1993 Act") "; and

(ii) for the words "the 1989 Act" there shall be substituted the [M108]words " the Prisons (Scotland) Act 1989 ("the 1989 Act") "; and

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in paragraph (b), for the words from "sections 15" to "1997 Act" there shall be substituted the words " sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ".

Commencement Information

I149 Sch. 8 para. 138 wholly in force; Sch. 8 para. 138 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Marginal Citations

M105 1993 c.9.
M106 1989 c.45.
M107 1993 c.9.
M108 1989 c.45.

139 In Schedule 6 to the 1997 Act (repeals), the entries relating to sections 33 to 51 and 65 of the 1991 Act are hereby repealed.

Commencement Information

I150 Sch. 8 para. 139 wholly in force; Sch. 8 para. 139 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Crime and Punishment (Scotland) Act 1997 (c.48)

140 Section 4 of the Crime and Punishment (Scotland) Act 1997 (supervised release orders) is hereby repealed.

Commencement Information

I151 Sch. 8 para. 140 wholly in force; Sch. 8 para. 140 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

141 (1) In Schedule 1 to that Act (minor and consequential amendments), the following provisions are hereby repealed, namely—

(a) paragraphs 1, 9(7), 10(2)(a), 13(3) and 21(3); and

(b) in paragraph 14, sub-paragraphs (2)(a), (3)(e), (4) to (7), (9), (10)(a), (11)(b), (12), (13) to (15) and (17).

(2) In paragraph 14 of that Schedule, for sub-paragraph (16) there shall be substituted the following sub-paragraph—

"(16) In section 27(1) (interpretation), in the definition of "supervised release order" the words "(as inserted by section 14 of this Act)" shall cease to have effect."

Commencement Information

I152 Sch. 8 para. 141 wholly in force; Sch. 8 para. 141 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

142 Schedule 2 to that Act (transitional provisions) is hereby repealed.

Commencement Information

I153 Sch. 8 para. 142 wholly in force; Sch. 8 para. 142 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

143 (1) Schedule 3 to that Act (repeals) shall be amended in accordance with this paragraph.

(2) In the entry relating to the Prisons (Scotland) Act 1989, in the third column, the words "In section 39, subsection (7)" are hereby repealed.

(3) In the entry relating to the Prisoners and Criminal Proceedings (Scotland) Act 1993—

(a) the words relating to sections 1, 3(2), 5, 6(1), 7, 9, 12(3), 16, 17(1), 20, 24, and Schedule 1;

(b) in the words relating to section 14, the words "and in subsection (4), the words "short-term"";

(c) in the words relating to 27(1)—

(i) the words "the definitions of "short term prisoner" and "long-term prisoner" and";

(ii) in the words relating to the definition of "supervised release order" the words "and the words from "but" to the end"; and

(d) the words relating to section 27(2), (3), (5) and (6),

are hereby repealed.

(4) In the entry relating to the Criminal Procedure (Scotland) Act 1995, in the third column, the words relating to section 44 are hereby repealed.

Commencement Information

I154 Sch. 8 para. 143 wholly in force; Sch. 8 para. 143 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(2)** (subject to savings in arts. 5-8)

Sex Offenders Act 1997 (c.51)

144 **F595** . . . . . .

Textual Amendments

F595 Sch. 8 para. 144 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141(1), Sch. 6 para. 38(8), **Sch. 7**; S.I. 2004/874, **art. 2**

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 9

Section 120(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Commencement Information

I155 Sch. 9 partly in force; Sch. 9 not in force at Royal Assent see s. 121; Sch. 9 para. 9 in force at 7.8.1998 by S.I.1998/1883, **art. 3**; certain paras. in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8) and for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, **art. 3(3)** (as amended by 1998/2412); Sch. 9 para. 7 in force at 1.7.1999 by S.I. 1998/3263, **art. 6**.

Presumption of incapacity

1 Nothing in section 34 of this Act shall apply in relation to anything done before the commencement of that section.

Commencement Information

I156 Sch. 9 para. 1 wholly in force; Sch. 9 para. 1 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Effect of child's silence at trial

2 Nothing in section 35 of this Act shall apply where the offence was committed before the commencement of that section.

Commencement Information

I157 Sch. 9 para. 2 wholly in force; Sch. 9 para. 2 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Sexual or violent offenders: extended sentences

F596 3 . . . . . .

Textual Amendments

F596 Sch. 9 para. 3 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Drug treatment and testing orders

F597 4 . . . . . .

Textual Amendments

F597 Sch. 9 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Young offenders: cautions

5 (1) Any caution given to a child or young person before the commencement of section 65 of this Act shall be treated for the purposes of subsections (2) and (4) of that section as a reprimand.

(2) Any second or subsequent caution so given shall be treated for the purposes of paragraphs (a) and (b) of subsection (3) of that section as a warning.

Commencement Information

I158 Sch. 9 para. 5 wholly in force; Sch. 9 para. 5 not in force at Royal Assent, see s. 121; Sch. 9 para. 5 in force at 30.9.1998 for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, **art. 3(3)** (as amended by 1998/2412); Sch. 9 para. 5 in force at 1.4.2000 for specified purposes and 1.6.2000 to the extent that it is not already in force by S.I. 2000/924, arts. 3, 4, **Sch.**

Abolition of secure training orders

6 In relation to any time before the commencement of subsection (7) of section 73 of this Act, section 9A of the 1997 Act shall have effect as if after subsection (1) there were inserted the following subsection—

"(1A) Section 9 above applies to periods of detention which offenders are liable to serve under secure training orders as it applies to sentences of imprisonment."

Commencement Information

I159 Sch. 9 para. 6 wholly in force; Sch. 9 para. 6 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Sentencing guidelines

7 (1) Section 80 of this Act does not apply by virtue of subsection (1)(a) of that section in any case where the Court is seised of the appeal before the commencement of that section.

(2) In this paragraph "the Court" and "seised" have the same meanings as in that section.

Confiscation orders on committal for sentence

8 **F598** . . . . . .

Textual Amendments

F598 Sch. 9 para. 8 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1), **Sch. 12**; S.I. 2003/333 {art. 2(1)}, Sch.

Football spectators: failure to comply with reporting duty

9 Section 84 of this Act does not apply where the offence was committed before the commencement of that section.

Status: *Point in time view as at 31/01/2017. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Power to release short-term prisoners on licence

10 (1) Section 99 of this Act does not apply in relation to a prisoner who, immediately before the commencement of that section, has served one or more days more than the requisite period for the term of his sentence.

(2) In this paragraph "the requisite period" has the same meaning as in section 34A of the 1991 Act (which is inserted by section 99 of this Act).

Early release: two or more sentences

11 (1) Where the terms of two or more sentences passed before the commencement of section 101 of this Act have been treated, by virtue of section 51(2) of the 1991 Act, as a single term for the purposes of Part II of that Act, they shall continue to be so treated after that commencement.

(2) Subject to sub-paragraph (1) above, section 101 of this Act applies where one or more of the sentences concerned were passed after that commencement.

Commencement Information

I160 Sch. 9 para. 11 wholly in force; Sch. 9 para. 11 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Recall to prison of short-term prisoners

12 (1) Sub-paragraphs (2) to (7) below have effect in relation to any prisoner whose sentence, or any part of whose sentence, was imposed for an offence committed before the commencement of section 103 of this Act.

(2) The following provisions of this Act do not apply, namely—

(a) section 103;

(b) paragraphs 83(1)(b) and 88(3)(a) of Schedule 8 to this Act and section 119 so far as relating to those paragraphs; and

(c) section 120(2) and Schedule 10 so far as relating to the repeal of section 38 of the 1991 Act and the repeals in sections 37(1) and 45(4) of that Act.

(3) Section 33 of the 1991 Act has effect as if, in subsection (3)(b) (as amended by paragraph 80(1) of Schedule 8 to this Act), for the words "section 39(1) or (2)" there were substituted the words " section 38(2) or 39(1) or (2) ".

(4) Section 33A of the 1991 Act (as inserted by paragraph 81 of Schedule 8 to this Act) has effect as if—

(a) in subsection (1), for the words "section 38A(1) or 39(1) or (2)" there were substituted the words " section 38(2) or 38A(1) "; and

(b) in subsection (3), for the words "section 39(1) or (2)", in both places where they occur, there were substituted the words " section 38(2) ".

(5) Section 34A of the 1991 Act (as inserted by section 99 of this Act) has effect as if, in subsection (2)(g), for the words "section 39(1) or (2)" there were substituted the words " section 38(2) ".

(6) Section 40A of the 1991 Act (as inserted by section 105 of this Act) has effect as if, in subsection (1), for the word "39" there were substituted the word " 38 ".

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(7) Section 44 of the 1991 Act (as substituted by section 59 of this Act) has effect as if—

(a) in subsections (3) and (4), after the words "subject to" there were inserted the words " any suspension under section 38(2) above or, as the case may be, "; and

(b) in subsection (7), for the words "sections 37(5) and 39(1) and (2)" there were substituted the words " section 37(5), 38(2) and 39(1) and (2) ".

(8) Section 45 of the 1991 Act has effect as if, in subsection (3) (as amended by paragraph 88(2) of Schedule 8 to this Act), for the words "section 39(1) or (2)" there were substituted the words " section 38(2) or 39(1) or (2) ".

(9) For the purposes of this paragraph and paragraph 13 below, consecutive sentences, or sentences that are wholly or partly concurrent, shall be treated as parts of a single sentence.

Commencement Information

I161 Sch. 9 para. 12 wholly in force at 1.1.1999; Sch. 9 para. 12 not in force at Royal Assent see s. 121; Sch. 9 para. 12(1)(3)-(9) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); Sch. 8 para. 83 in force at 1.1.1999 (to the extent that entry in not already in force) by S.I. 1998/3263, **art. 2**

Release on licence following recall to prison

13 Section 104 of this Act does not apply in relation to a prisoner whose sentence, or any part of whose sentence, was imposed for an offence committed before the commencement of that section.

Commencement Information

I162 Sch. 9 para. 13 wholly in force; Sch. 9 para. 13 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Release on licence following return to prison

14 (1) Section 105 of this Act does not apply where the new offence was committed before the commencement of that section.

(2) In this paragraph "the new offence" has the same meaning as in **[**[F599]section 116 of the Powers of Criminal Courts (Sentencing) Act 2000**]**.

Textual Amendments

F599 Words in Sch. 9 para. 14(2) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 203**

Commencement Information

I163 Sch. 9 para. 14 wholly in force; Sch. 9 para. 14 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

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Remand time: two or more sentences

15 (1) Where the terms of two or more sentences passed before the commencement of paragraph 11 of Schedule 8 to this Act have been treated, by virtue of section 104(2) of the [M109]Criminal Justice Act 1967, as a single term for the purposes of section 67 of that Act, they shall continue to be so treated after that commencement.

(2) Subject to sub-paragraph (1) above, paragraph 11 of Schedule 8 to this Act applies where one or more of the sentences concerned were passed after that commencement.

Commencement Information

I164 Sch. 9 para. 15 wholly in force; Sch. 9 para. 15 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M109 1967 c.80.

SCHEDULE 10

Section 120(2).

REPEALS

Modifications etc. (not altering text)

C40 Sch. 10 excluded (19.9.1998) by S.I. 1998/2327, **arts.7(4)**,8(1).

Commencement Information

I165 Sch. 10 partly in force; Sch. 10 not in force at Royal Assent see s. 121; Sch. 10 in force for certain purposes at 30.9.1998 by S.I. 1998/2327, **art. 2(1)(3)** (subject to savings in arts. 5-8); Certain repeals in Sch. 10 in force at 30.9.1998 in certain areas by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); Certain repeals in Sch. 10 in force at 4.1.1999 for certain purposes by S.I. 1998/2327, **art. 4(2)**; Certain repeals in Sch. 10 in force at 1.1.1999 by S.I. 1998/3263, **art. 2**; Sch. 10 in force for certain purposes at 1.6.1999 by S.I. 1999/1279, **art. 2(g)**; Sch. 10 in force for certain purposes at 1.4.2000 by S.I. 1999/3426, **art. 3(c)** (with art. 4); entries in Sch. 10 relating to the words "by a probation officer" in s. 2(1) of 1973 c. 62 and to s. 31(2) of 1997 c. 43 in force at 1.4.2000 to the extent that they are not already in force by S.I. 2000/924, **art. 2**; entry in Sch. 10 relating to ss. 125 and 126 of the Magistrates' Courts Act 1980 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Chapter	Short title	Extent of repeal
30 Geo 3 c.48.	Treason Act 1790.	The whole Act.
36 Geo 3 c.7.	Treason Act 1795.	The whole Act.
36 Geo 3 c.31.	Treason by Women Act (Ireland) 1796.	The whole Act.
57 Geo 3 c.6.	Treason Act 1817.	The whole Act.
11 & 12 Vict c.12.	Treason Felony Act 1848.	Section 2.

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21 & 22 Geo 5 c.24.	Sentence of Death (Expectant Mothers) Act 1931.	The whole Act.
23 Geo 5 c.12.	Children and Young Persons Act 1933.	In section 47(2), the words from the beginning to "court; and".
		In Schedule 2, in paragraph 15(a), the word "shall", in the second place where it occurs, and, in paragraph 17, the words "or, if a metropolitan stipendiary magistrate, may sit alone".
1945 c.15 (N.I.).	Criminal Justice Act (Northern Ireland) 1945.	Sections 32 and 33.
1967 c.80.	Criminal Justice Act 1967.	In section 56, subsections (3), (6) and (13).
		Section 67(5)(c).
1968 c.19.	Criminal Appeal Act 1968.	In section 10(2), the words "(other than a supervision order within the meaning of that Part)".
1969 c.54.	Children and Young Persons Act 1969.	Section 12D.
		Section 13(2).
		In section 16, subsection (10) and, in subsection (11), the words "seventeen or".
		Section 23(14)(a).
		In section 34, in subsection (1), paragraph (a) and, in paragraph (c), the words
		" 7(7), 7(8)," .
		Section 69(5).
		In Schedule 6, the entries relating to sections 55, 56(1) and 59(1) of the Children and Young Persons Act 1933.
1972 c.71.	Criminal Justice Act 1972.	Section 49.
1973 c.62.	Powers of Criminal Courts Act 1973.	In section 1, in subsections (8)(b) and (8A) the words "37 or".
		Section 1B(10).

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		In section 1C(1), paragraph (b) and the word "and" immediately preceding it.
		In section 2(1), the words "by a probation officer" and the words from "For the purposes" to "available evidence".
		Section 11.
		Section 14(8).
		In section 31, in subsection (3A), the words "Subject to subsections (3B) and (3C) below,", subsections (3B) and (3C), in subsection (4), the words "4 or" and, in subsection (6), the words "about committal by a magistrates' court to the Crown Court".
		Section 32(5).
		Section 42(2).
		In Schedule 1A, paragraph 6(7).
		In Schedule 5, paragraph 35.
1976 c.63.	Bail Act 1976.	In section 3(5), the words "If it appears that he is unlikely to remain in Great Britain until the time appointed for him to surrender to custody".
1980 c.43.	Magistrates' Courts Act 1980.	Section 37.
		In sections 38(2) and 38A(2), the words ", in accordance with section 56 of the Criminal Justice Act 1967,".
		In section 108(2), the words "a probation order or".
		In section 125(4)(c), the word "and" at the end of sub-paragraph (ii).
		In section 126, the word "and" at the end of paragraph (c).

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		In Schedule 7, paragraph 120(b).
1982 c.48.	Criminal Justice Act 1982.	Section 1A(4A).
		Section 1B.
		In section 1C(2), the words “but if he is under 18 at the time of the direction, only for a temporary purpose”.
		In section 3(1)(a), the words “under section 1A above”.
		Section 18(7).
		In section 19, in subsection (3)(a), the words “revoke it and” and, in subsection (5), the words “revoke the attendance centre order and”.
		Section 66(3).
		In Schedule 14, paragraph 28.
1987 c.42.	Family Law Reform Act 1987.	Section 8(1).
		In Schedule 2, paragraph 26.
1988 c.33.	Criminal Justice Act 1988.	Section 69(2).
		In Schedule 15, paragraph 40.
1989 c.45.	Prisons (Scotland) Act 1989.	In section 39(7), the words from “and the foregoing” to the end.
1991 c.53.	Criminal Justice Act 1991.	In section 6(4), the word “and” immediately following paragraph (e).
		In section 31(1), in the definition of “custodial sentence”, in paragraph (b), the words “or a secure training order under section 1 of the Criminal Justice and Public Order Act 1994”.
		Section 33(4).
		In section 37, in subsection (1), the words “any suspension under section 38(2) below or, as the case may be,” and, in subsection (4), the words

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		"(which shall include on his release conditions as to his supervision by a probation officer)".
		Section 38.
		In section 45(4), the words "any suspension under section 38(2) below; or".
		In section 61(1), paragraph (b) and the word "or" immediately preceding that paragraph.
		Section 62.
		In Schedule 2, in paragraphs 3(1)(d) and 4(1)(d), the words "revoke the order and" and, in paragraph 17(1), the words from "and the court" to the end.
		In Schedule 11, paragraphs 10, 11 and 14.
		In Schedule 12, paragraph 17(3).
1993 c.9.	Prisoners and Criminal Proceedings (Scotland) Act 1993.	Section 11(3)(b) and (4).
		Section 14(2) and (3).
		Section 16(7)(b).
		In paragraph 6B(1) of Schedule 6, the word "and" after head (a).
1993 c.47.	Probation Service Act 1993.	Section 17(5A).
1994 c.33.	Criminal Justice and Public Order Act 1994.	Sections 1 to 4.
		Section 20.
		In section 35, in subsection (1), the words "who has attained the age of fourteen years" and subsection (6).
		Section 130(4).
		In Schedule 10, paragraph 42.
1994 c.37.	Drug Trafficking Act 1994.	Section 2(7)(a).

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1995 c.46.	Criminal Procedure (Scotland) Act 1995.	Section 118(4A)(c)(iii).
		In section 175(5C), the words "paragraph (a) of".
		In section 209(1), the words "not less than twelve months but".
1997 c.43.	Crime (Sentences) Act 1997.	Section 1.
		Section 8.
		Sections 10 to 27.
		In section 31(2), the words "(which shall include on his release conditions as to his supervision by a probation officer)".
		In section 35, in subsection (5), paragraph (c) and the word "and" at the end of paragraph (d), and in subsection (8), in paragraph (a), the words "to revoke the order and deal with an offender for the offence in respect of which the order was made" and the word "and" at the end of that paragraph.
		Section 43(4).
		Section 54(2).
		In Schedule 1, in paragraph 9(1), paragraph (a) and, in paragraph (b), the words "to that and", paragraph 9(5), paragraph 10(4), in paragraph 11(6), the words "or Part III of the 1997 Act", in paragraph 12(5), in the Table, the entry relating to the expression "prison rules" and, in paragraph 13(5), in the Table, the entry relating to the expression "prison rules".
		In Schedule 2, paragraphs 4 and 8.

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		In Schedule 4, paragraph 6(1)(b), paragraphs 9 and 11 and paragraph 12(4).
		In Schedule 5, paragraphs 1 to 4, paragraph 5(2), paragraph 6, paragraph 8, paragraph 9(1), paragraph 10(1), in paragraph 11, sub-paragraph (1), in sub-paragraph (2)(c), the words "or Part III of the 1997 Act" and, in sub-paragraph (3), the words from the beginning to "1995; and", and in paragraph 12, sub-paragraph (1) and, in sub-paragraph (2)(c), the words "or Part III of the 1997 Act".
		In Schedule 6, the entries relating to sections 33 to 51 and 65 of the Criminal Justice Act 1991.
1997 c.48.	Crime and Punishment (Scotland) Act 1997.	Section 4.
		Chapter I of Part III.
		In Schedule 1, paragraph 1, paragraph 9(7), paragraph 10(2)(a), paragraph 13(3), in paragraph 14, sub-paragraphs (2)(a), (3)(e), (4) to (7), (9), (10)(a), (11)(b), (12), (13) to (15) and (17), and paragraph 21(3).
		Schedule 2.
		In Schedule 3, in the entry relating to the Prisons (Scotland) Act 1989, the words "In section 39, subsection (7)", in the entry relating to the Prisoners and Criminal Proceedings (Scotland) Act 1993, the words relating to sections 1, 3(2), 5, 6(1), 7, 9, 12(3), 16, 17(1), 20, 24, 27(2), (3), (5) and (6) and Schedule 1, in the words relating to section 14, the words "and, in subsection (4), the words

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		"short-term"", in the words relating to section 27(1), the words "the definitions of "short term prisoner" and "long-term prisoner" and" and "and the words from "but" to the end" and, in the entry relating to the Criminal Procedure (Scotland) Act 1995, the words relating to section 44.
1997 c.50.	Police Act 1997.	In section 94(4), the word "and" immediately preceding paragraph (c).

Modifications etc. (not altering text)

C41 Sch. 10: repeal of s. 11 of the 1973 Act excluded (19.9.1998) by S.I. 1998/2327, **art. 6(2)**

Status:
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