Crime and Disorder Act 1998

1998 CHAPTER 37

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Remands and committals

97 Remands and committals of children and young persons.

(1) In subsection (4) of section 23 of the 1969 Act (remands and committals to local authority accommodation), for the words "Subject to subsection (5) below," there shall be substituted the words " Subject to subsections (5) and (5A) below, ".

(2) In subsection (5) of that section, for the words "a young person who has attained the age of fifteen" there shall be substituted the words " a child who has attained the age of twelve, or a young person, who (in either case) is of a prescribed description ".

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

"(5A) A court shall not impose a security requirement in respect of a child or young person who is not legally represented in the court unless—

(a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or

(b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply."

(4) In subsection (12) of that section, after the definition of "imprisonable offence" there shall be inserted the following definition—

""prescribed description" means a description prescribed by reference to age or sex or both by an order of the Secretary of State;".

(5) [F1] . . . . . .

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1 S. 97(5) repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

Commencement Information

I1 S. 97 wholly in force at 1.6.1999; S. 97 not in force at Royal Assent see s. 121; In force at 30.9.1998 for the purpose of making an order under section 23 of the 1969 Act by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); s. 97 in force at 1.6.1999 insofar as not already in force by S.I. 1999/1279, **art. 2(d)**

98 Remands and committals: alternative provision for 15 or 16 year old boys.

(1) Section 23 of the 1969 Act shall have effect with the modifications specified in subsections (2) to (6) below in relation to any male person who—

(a) is of the age of 15 or 16; and

(b) is not of a description prescribed for the purposes of subsection (5) of that section **[**[F2]; and

(c) is not remanded in connection with proceedings under the Extradition Act 2003.**]**

(2) In subsection (1), immediately before the words "the remand" there shall be inserted the words " then, unless he is remanded to a remand centre or a prison in pursuance of subsection (4)(b) or (c) below, ".

(3) For subsections (4) to (5A) there shall be substituted the following subsections—

"(4) Where a court, after consultation with a probation officer, a social worker of a local authority [F3]. . . or a member of a youth offending team, declares a person to be one to whom subsection (5) below applies—

(a) it shall remand him to local authority accommodation and require him to be placed and kept in secure accommodation, if—

(i) it also, after such consultation, declares him to be a person to whom subsection (5A) below applies; and

(ii) it has been notified that secure accommodation is available for him;

(b) it shall remand him to a remand centre, if paragraph (a) above does not apply and it has been notified that such a centre is available for the reception from the court of persons to whom subsection (5) below applies; and

(c) it shall remand him to a prison, if neither paragraph (a) nor paragraph (b) above applies.

(4A) A court shall not declare a person who is not legally represented in the court to be a person to whom subsection (5) below applies unless—

(a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or

(b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.

(5) This subsection applies to a person who—

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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) is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or

(b) has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,

if (in either case) the court is of opinion that only remanding him to a remand centre or prison, or to local authority accommodation with a requirement that he be placed and kept in secure accommodation, would be adequate to protect the public from serious harm from him.

(5A) This subsection applies to a person if the court is of opinion that, by reason of his physical or emotional immaturity or a propensity of his to harm himself, it would be undesirable for him to be remanded to a remand centre or a prison."

(4) In subsection (6)—

(a) for the words "imposes a security requirement in respect of a young person" there shall be substituted the words " declares a person to be one to whom subsection (5) above applies "; and

(b) for the words "subsection (5) above" there shall be substituted the words " that subsection ".

(5) In subsection (7), after the words "a security requirement" there shall be inserted the words " (that is to say, a requirement imposed under subsection (4)(a) above that the person be placed and kept in secure accommodation) ".

(6) After subsection (9) there shall be inserted the following subsection—

"(9A) Where a person is remanded to local authority accommodation without the imposition of a security requirement, a relevant court may, on the application of the designated authority, declare him to be a person to whom subsection (5) above applies; and on its doing so, subsection (4) above shall apply."

(7) Section 62 of the 1991 Act (which is superseded by this section) shall cease to have effect.

Textual Amendments

F2 S. 98(1)(c) and preceding word inserted (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 201(10)**, 221; S.I. 2003/3103, **art. 2** (with arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2); S.I. 2003/3312, art. 2(2))

F3 Words in s. 98(3) 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)**

Modifications etc. (not altering text)

C1 S. 98 amended (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 paras. 4, **7** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with Sch. 2 para. 2)

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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)*

Release and recall of prisoners

99 Power to release short-term prisoners on licence.

F4 . . . . . .

Textual Amendments

F4 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.

F5 . . . . . .

Textual Amendments

F5 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) F6 . . . . . .

(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

F6 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

I2 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)

F7 102 . . . . . .

Textual Amendments

F7 S. 102 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 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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)*

103 Recall to prison of short-term prisoners.

F8 . . . . . .

Textual Amendments

F8 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.

F9 . . . . . .

Textual Amendments

F9 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.

F10 . . . . . .

Textual Amendments

F10 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

I3 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.

F11 . . . . . .

Textual Amendments

F11 S. 107 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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)*

108 Repeal of Chapter I of Part III of Crime and Punishment (Scotland) Act 1997.

F12 . . . . . .

Textual Amendments

F12 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 [M1]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 [M2]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

M1 1997 c.48.

M2 1997 c.48.

110 Calculation of period of detention at customs office etc. where person previously detained.

In section 24 of the [M3]Criminal Law (Consolidation) (Scotland) Act 1995 (detention and questioning by customs officers), in subsection (4)—

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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) 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

I4 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

M3 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."

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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) 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.

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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 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

I5 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 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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 [M4]Prisoners and Criminal Proceedings (Scotland) Act 1993."

Commencement Information

I6 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

M4 1993 c.9.

113 Deputy authorising officer under Part III of Police Act 1997.

[F13] . . . . . .

Textual Amendments

F13 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 **[**[F14]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 **[**[F15]1A,**][**[F16], 1G**][**[F17]5(1A), (2) or (3)[F18]. . . **[**[F19]10(6), 66C(1) or 66H(e)(vi)**]** above (other than one made by the National Assembly for Wales), or containing**]** regulations under **[**[F20]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.

[[F21](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 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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 **[**[F22]1F,**]**[[F23]5(6),**]**[[F24]13A(5),**]**[[F25]17(4), 38(5), 41(6) **[**[F26], 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.

[[F27](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).**]**

[[F28](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

F14 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**

F15 Word in s.114(2) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 62(2)**; S.I. 2002/2750, **art. 2(a)(vii)**

F16 Words in s. 114(2) inserted (1.10.2006) by Drugs Act 2005 (c. 17), **ss. 20(2)**, 24(3); S.I. 2006/2136, **art. 2**

F17 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**

F18 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)**

F19 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)**

F20 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)**

F21 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)**

F22 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)**

F23 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)**

F24 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)

F25 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)**

F26 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)**

F27 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)**

F28 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 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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 **[**[F29]this section**]**"relevant authority" means—

(a) the chief officer of police for a police area in England and Wales;

(b) the chief constable of a police force maintained under the [M5]Police (Scotland) Act 1967;

(c) a police authority within the meaning given by section 101(1) of the [M6]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 **[**[F30], a parish council**]** or the Common Council of the City of London;

(ii) in relation to Wales, a county council **[**[F31], a county borough council or a community council**]** ;

(iii) in relation to Scotland, a council constituted under section 2 of the [M7]Local Government etc. (Scotland) Act 1994;

[[F32](dza) a non-profit registered provider of social housing;**]**

[[F33](da) a person registered under section 1 of the Housing Act 1996 as a social landlord;**]**

(e) a **[**[F34]local probation board**]** in England and Wales;

[[F35](ea) a Strategic Health Authority;**]**

[[F36](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 **[**[F37]Local Health Board**]**;

[[F38](g) a Primary Care Trust**]**;

[[F39](h) the London Fire and Emergency Planning Authority;

(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;

(j) a metropolitan county fire and rescue authority.**]**

[[F40](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

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

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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 (3) "the appropriate national authority" has the same meaning as in section 5.**]**

Textual Amendments

F29 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**

F30 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**

F31 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**

F32 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**

F33 S. 115(2)(da) inserted (E.W.) (18.1.2005) by Housing Act 2004 (c. 34), **ss. 219**, 270(3)(a)

F34 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)**

F35 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)**

F36 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)**

F37 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)**

F38 S. 115(2)(g) added (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(7)**

F39 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**

F40 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

I7 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

M5 1967 c.77.

M6 1996 c.16.

M7 1994 c.39.

116 Transitory provisions.

F41 . . . . . .

Textual Amendments

F41 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—

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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)*

"the 1933 Act" means the [M8]Children and Young Persons Act 1933;

"the 1969 Act" means the [M9]Children and Young Persons Act 1969;

"the 1973 Act" means the [M10]Powers of Criminal Courts Act 1973;

"the 1980 Act" means the [M11]Magistrates' Courts Act 1980;

"the 1982 Act" means the [M12]Criminal Justice Act 1982;

"the 1984 Act" means the [M13]Police and Criminal Evidence Act 1984;

"the 1985 Act" means the [M14]Prosecution of Offences Act 1985;

"the 1989 Act" means the [M15]Children Act 1989;

"the 1991 Act" means the [M16]Criminal Justice Act 1991;

"the 1994 Act" means the [M17]Criminal Justice and Public Order Act 1994;

"the 1997 Act" means the [M18]Crime (Sentences) Act 1997;

"caution" has the same meaning as in Part V of the [M19]Police Act 1997;

"child" means a person under the age of 14;

[F42] . . . . . .

"custodial sentence" has the same meaning as in **[**[F43]the Powers of Criminal Courts (Sentencing) Act 2000**]**;

"guardian" has the same meaning as in the 1933 Act;

[[F44]"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 [M20]Prisoners and Criminal Proceedings (Scotland) Act 1993; and

"the 1995 Act" means the [M21]Criminal 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.

Textual Amendments

F42 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**

F43 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**

F44 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

M8 1933 c.12.

M9 1969 c.54.

M10 1973 c.62.

M11 1980 c.43.

M12 1982 c.48.

M13 1984 c.60.

M14 1985 c.23.

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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)*

M15 1989 c.41.
M16 1991 c.53.
M17 1994 c.33.
M18 1997 c.43.
M19 1997 c.50.
M20 1993 c.9.
M21 1995 c.46.

118 Provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the [M22]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

I8 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

M22 1974 c.28.

[F45]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.

Textual Amendments

F45 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 [M23]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.

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I9 S. 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

M23 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);

(c) section 65(9);

(d) section 115;

(e) paragraph 3 of Schedule 3 to this Act and section 52(6) above so far as relating to that paragraph;

F46(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.

Status: *Point in time view as at 01/04/2010.*
Changes to legislation: *Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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)*

(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) [F47]. . . 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)

Textual Amendments

F46 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)

F47 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 01/04/2010.

Changes to legislation:
Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 21 May 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.