

These notes refer to the Youth Justice and Criminal Evidence Act 1999 (c.23) which received Royal Assent on 27 July 1999

YOUTH JUSTICE AND CRIMINAL EVIDENCE ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part III: Final provisions

207. **Section 64** requires the Secretary of State to make the orders and regulations provided for throughout the Act by statutory instrument. Statutory instruments are subordinate legislation. They may be subject to *affirmative resolution procedure*, by which each House of Parliament in turn is asked to debate and approve their content, or *negative resolution procedure*, by which both Houses are offered the opportunity to ask for a debate and vote. Some statutory instruments, such as orders specifying the date upon which provisions of the Act are to come into force, may be subject to neither procedure.
208. **Section 65** gives a power for making rules of court about the provisions in the Act. Rules of court contain detailed rules of procedure, have the force of legislation and will enable the courts properly to implement the Act.
209. **Section 66** provides alternative procedures for extending the provisions in Parts II and III to Northern Ireland, depending on whether Parts II and III of the Northern Ireland Act 1998 have been implemented when the provisions come to be extended. If the 1998 Act has been implemented, the provisions will be extended through Orders in Council under the 1998 Act, which will be subject to the *negative resolution procedure* (i.e. each House of Parliament will be given the opportunity to veto the Order) instead of the procedure to which they would otherwise be subject under section 85 of the 1998 Act. If the 1998 Act has not been implemented, an Order in Council will be made under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974, which will also be subject to the negative resolution procedure.
210. **Section 67** and Schedules 4, 6 and 7 make minor and consequential amendments (Schedule 4), repeals of existing legislation which is superseded by the Act or spent (Schedule 6) and transitional arrangements in respect of investigations or proceedings part-way through at the time the Act will commence (Schedule 7).
211. It may be helpful to note the following. Paragraphs 1, 10, 12 to 14 and 17 of Schedule 4 relate to Chapter V of Part II of the Act. Paragraph 2 of Schedule 4 relates to section 25. Paragraphs 3, 4(3) and 24 of Schedule 4 relate to Chapter IV of Part II. Paragraphs 4(2), 5 to 9, 11, 20, 23 and 25 to 30 of Schedule 4 relate to Part I of the Act. Paragraph 16 of Schedule 4 relates to the repeals that give effect to section 60. Paragraphs 18 and 19 of Schedule 4 relate to paragraphs 22 and 23 of Schedule 3 to the Act.
212. **Paragraph 22** of Schedule 4 clarifies section 51 of the Criminal Justice and Public Order Act 1994, so that it is clear that a threat to harm a witness relayed through a third party constitutes an offence under that section. It also makes it clear that when, within a year after the trial, someone threatens to harm a witness or juror, the prosecution do not need to prove a connection between the threat and the trial for an offence to be committed under that section.

213. **Section 67** also introduces Schedule 5, which contains pre-consolidation amendments relating to youth justice. There are three main areas that the Schedule amends. They are provisions about supervision orders contained in the Children and Young Persons Act 1969, provisions about detention and training orders contained in the Crime and Disorder Act 1998 and provisions in that Act about reparation and action plan orders. The amendments do not alter any of the original policy intentions set out in the debates which surrounded the passage of these Acts. They simply clarify the legislation and ensure consistency across the range of court disposals.
214. *Subsection (2)* of section 68 provides that this Act will be deemed a pre-commencement Act for the purposes of the Scotland Act 1998, so that Ministerial functions conferred by this Act will transfer automatically to Scottish Ministers so far as they are exercisable “within devolved competence” (as defined in section 54 of the Scotland Act 1998).
215. *Subsection (3)* enables the Secretary of State to fix various dates for bringing this Act into force. It is intended that the introduction of the measures in the Act will be staggered, to allow time for adequate arrangements to be put in place across England and Wales and for new practices to be developed and tested. Courts will only be able to make the measures in Chapter I of Part II available when the Secretary of State has notified them that they may do so under section 18.
216. **Section 68** also provides that the provisions about reporting restrictions will be enforceable in all parts of the United Kingdom, even though an individual restriction will relate to an offence or court proceedings in a particular part of the United Kingdom (*subsection (5) and (6)*). *Subsection (9)* ensures that (with the exceptions specified) any amendment or repeal to other legislation provided for in the Act becomes part of the law of the same territories as have the original legislation as part of their law. *Subsection (10)* provides for Chapter IV of Part II and section 61 to apply to courts-martial and other service courts wherever in the world they may be held.