



# Criminal Justice and Court Services Act 2000

## 2000 CHAPTER 43

An Act to establish a National Probation Service for England and Wales and a Children and Family Court Advisory and Support Service; to make further provision for the protection of children; to make further provision about dealing with persons suspected of, charged with or convicted of offences; to amend the law relating to access to information held under Part III of the Road Traffic Act 1988; and for connected purposes. [30th November 2000]

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:—

### PART I

#### THE NEW SERVICES

#### CHAPTER I

#### NATIONAL PROBATION SERVICE FOR ENGLAND AND WALES

##### *Introduction*

#### **1 Purposes of the Chapter.**

(1) This Chapter has effect for the purposes of providing for—

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- (a) courts to be given assistance in determining the appropriate sentences to pass, and making other decisions, in respect of persons charged with or convicted of offences, and
- (b) the supervision and rehabilitation of such persons.

[<sup>F1</sup>(1A) This Chapter also has effect for the purposes of providing for—

- (a) authorised persons to be given assistance in determining whether conditional cautions should be given and which conditions to attach to conditional cautions, and
- (b) the supervision and rehabilitation of persons to whom conditional cautions are given.]

(2) Subsection (1)(b) extends (in particular) to—

- (a) giving effect to community orders,
- (b) supervising persons released from prison on licence,
- (c) providing accommodation in approved premises.

(3) Regulations may extend the purposes mentioned in subsection (1) to include other prescribed purposes relating to persons charged with or convicted of offences.

[<sup>F2</sup>(4) In this section “authorised person” and “conditional caution” have the same meaning as in Part 3 of the Criminal Justice Act 2003.]

#### **Textual Amendments**

- F1** S. 1(1A) inserted (3.7.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 26(2)**, 336(3)(4); S.I. 2004/1629, art. 2(1)(2)(a)
- F2** S. 1(4) inserted (3.7.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 26(3)**, 336(3)(4); S.I. 2004/1629, art. 2(1)(2)(a)

#### **Modifications etc. (not altering text)**

- C1** S. 1(1) extended (1.4.2001) by [S.I. 2001/786](#), **art. 2**

## **2 Aims of the Service.**

(1) This section applies to—

- (a) the functions of the Secretary of State under this Chapter,
- (b) the functions of local probation boards, and officers of local probation boards, under this Act or any other enactment,

so far as they may be exercised for the purposes mentioned in section 1.

(2) In exercising those functions the person concerned must have regard to the following aims—

- (a) the protection of the public,
- (b) the reduction of re-offending,
- (c) the proper punishment of offenders,
- (d) ensuring offenders’ awareness of the effects of crime on the victims of crime and the public,
- (e) the rehabilitation of offenders.

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## Functions

### 3 Functions of the Secretary of State.

- (1) The Secretary of State has the function of ensuring that provision is made throughout England and Wales for the purposes mentioned in section 1.
- (2) The Secretary of State may make any payment he considers appropriate towards expenditure incurred by any person for any of those purposes.
- (3) If he considers it appropriate, he may make any payment on conditions.
- (4) The conditions may (among other things)—
  - (a) regulate the purposes for which the payment or any part of it may be used,
  - (b) require repayment to the Secretary of State in specified circumstances.

### 4 Local probation boards.

- (1) For the purpose of implementing this Chapter, England and Wales shall be divided into areas.
- (2) For each area there shall be a board (referred to in this Act as a local probation board) which is to exercise the functions conferred on it by virtue of this Act and any other enactment.
- (3) Schedule 1 (which makes provision about the constitution of local probation boards, their powers and other matters relating to them) is to have effect.
- (4) References in this Act or any other enactment to an officer of a local probation board are references to—
  - (a) any member of the staff of a local probation board appointed to exercise the functions of an officer of the board, and
  - (b) any other individual exercising functions of an officer of a local probation board by virtue of section 5(2).
- (5) The initial areas for the purpose of implementing this Chapter are—
  - (a) the police areas listed in Schedule 1 to the<sup>M1</sup>Police Act 1996 (areas into which England and Wales, apart from London, is divided), and
  - (b) the area comprising the Metropolitan Police District and the City of London Police Area.
- (6) The division of England and Wales into areas for that purpose may be altered from time to time by order made by the Secretary of State.

#### Marginal Citations

M1 1996 c. 16.

### 5 Functions of local probation boards.

- (1) It is a function of a local probation board—
  - (a) to make arrangements for ensuring that sufficient provision is made in respect of its area for the purposes mentioned in section 1 and for ensuring the

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- performance of any other functions conferred by virtue of this Act or any other enactment on the board,
- (b) to make arrangements for ensuring the performance of any functions conferred by virtue of this Act or any other enactment on officers of the board, and to implement, or ensure the implementation of, any arrangements it makes under this section.
- (2) In addition to making arrangements for provision to be made by its staff, a local probation board may (for example)—
- (a) make arrangements with organisations for provision to be made on the board’s behalf by the organisations,
- (b) make arrangements with individuals who are not members of the board’s staff under which they may perform functions of officers of the board,
- and arrangements under paragraph (a) may provide for the organisations to designate individuals who may perform functions of officers of the board.
- (3) The provision that may be made in pursuance of such arrangements includes providing services to any person and, in particular—
- (a) giving assistance to persons remanded on bail or for whom officers of the board have responsibilities,
- (b) providing accommodation in approved premises for persons who have at any time been charged with or convicted of an offence.
- (4) A local probation board may provide for its staff to co-operate with persons in its area who are concerned with the prevention or reduction of crime or with giving assistance to the victims of crime.
- (5) Regulations may confer further functions on local probation boards or officers of local probation boards.
- (6) A local probation board may give grants or other financial assistance to any person only in pursuance of regulations.
- (7) A local probation board—
- (a) may make an arrangement with another local probation board under which it provides on behalf of the other board, in respect of the other board’s area, any services which it could provide under this section in respect of its own area, and
- (b) may charge the other local probation board for any services it provides in pursuance of the arrangement.
- (8) It is for the Secretary of State to determine whether or not any provision made by a local probation board under this section is sufficient.

## **6 The inspectorate.**

- (1) The inspectorate, and the office of chief inspector, established under section 23 of the <sup>M2</sup>Probation Service Act 1993 (inspectorate of probation) shall continue in being, but—
- (a) the members of the inspectorate are to be known as “Her Majesty’s Inspectorate of the National Probation Service for England and Wales”, and
- (b) the chief inspector is to be known as “Her Majesty’s Chief Inspector of the National Probation Service for England and Wales”.

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- (2) The power to appoint a person to be chief inspector or one of the other members of the inspectorate is exercisable by the Secretary of State.
- (3) The Secretary of State may determine—
  - (a) the number of members of the inspectorate,
  - (b) the remuneration, allowances or other amounts to be paid by him to or in respect of the members of the inspectorate.
- (4) Below in this Chapter—
  - (a) references to the chief inspector are to Her Majesty’s Chief Inspector of the National Probation Service for England and Wales,
  - (b) references to the members of the inspectorate are to the chief inspector and the other members of Her Majesty’s Inspectorate of the National Probation Service for England and Wales.

**Marginal Citations**

M2 1993 c. 47.

**7 Functions of inspectorate.**

- (1) The chief inspector must secure that the provision made in pursuance of arrangements made by each local probation board under section 5 is inspected by a member of the inspectorate.
- (2) The Secretary of State may direct the members of the inspectorate to assess the provision made by reference to criteria specified in directions.
- (3) A report of an inspection under subsection (1) must be sent to the Secretary of State.
- (4) The Secretary of State may give directions as to—
  - (a) the information to be given in the report and the form in which it is to be given,
  - (b) the time by which the report is to be given.
- (5) The Secretary of State must lay a copy of the report before each House of Parliament.
- (6) The Secretary of State may give directions, in connection with the purposes mentioned in section 1 or any related purposes, conferring further functions on the chief inspector and the other members of the inspectorate.

*Miscellaneous*

**8 Support services.**

- (1) The Secretary of State may by order provide for any services to which, in his opinion, subsection (3) applies to be provided not by the staff of local probation boards but by others under arrangements made with the boards.
- (2) The order may provide that only the Secretary of State, or an organisation or individual of a description specified in the order, may provide the services.
- (3) This subsection applies to services—

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- (a) which are required by local probation boards in connection with the exercise of their functions, but
- (b) which, with a view to obtaining better value for money or to improving the standard of the services or the efficiency of their provision, are better provided by persons other than the staff of local probation boards.

## 9 Approved premises.

- (1) The Secretary of State may approve premises in which accommodation is provided—
  - (a) for persons granted bail in criminal proceedings (within the meaning of the <sup>M3</sup>Bail Act 1976), or
  - (b) for, or in connection with, the supervision or rehabilitation of persons convicted of offences.
- (2) References in any enactment to an approved bail hostel or approved probation hostel are to be read as references to premises approved under this section.
- (3) Regulations may provide for the regulation, management and inspection of premises approved under this section.
- (4) The Secretary of State may at any time make payments of any amount he considers appropriate towards the expenditure of any person in carrying on, or enlarging or improving, any premises if the premises are approved under this section or the payment is made with a view to their approval.

### Marginal Citations

M3 1976 c. 63.

## 10 Default powers.

- (1) The power conferred by this section is exercisable by the Secretary of State in respect of a local probation board if it appears to him that the board is failing to perform the functions conferred on it or that its arrangements for performing those functions do not represent good value for money.
- (2) The Secretary of State may make an order (a “management order”) in respect of the board.
- (3) A management order may modify the application of Schedule 1 in relation to the board by—
  - (a) providing for the board to comprise persons determined in accordance with an arrangement made between the Secretary of State and an organisation (a “management arrangement”), and
  - (b) making any other modifications which appear to the Secretary of State to be necessary or expedient in consequence of that provision or of the management arrangement.
- (4) A management order may provide for the persons determined in accordance with the management arrangement to replace all or any of the chairman, the chief officer and the other existing members of the board; and vacancies occurring among the replacements are to be filled in accordance with the management arrangement.

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- (5) The power to revoke a management order is exercisable at any time when the Secretary of State considers it necessary or expedient to revoke it.
- (6) On the revocation of a management order, any person who is a member of the board by virtue of the order and the arrangement ceases to be a member; and, accordingly, any vacancy occurring by virtue of the revocation is to be filled in accordance with Schedule 1 (unless the Secretary of State makes a new management order).

## CHAPTER II

### CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE

#### 11 Establishment of the Service.

- (1) There shall be a body corporate to be known as the Children and Family Court Advisory and Support Service (referred to in this Part as the Service) which is to exercise the functions conferred on it by virtue of this Act and any other enactment.
- (2) Schedule 2 (which makes provision about the constitution of the Service, its powers and other matters relating to it) is to have effect.
- (3) References in this Act or any other enactment to an officer of the Service are references to—
  - (a) any member of the staff of the Service appointed under paragraph 5(1)(a) of that Schedule, and
  - (b) any other individual exercising functions of an officer of the Service by virtue of section 13(2) or (4).

#### 12 Principal functions of the Service.

- (1) In respect of family proceedings in which the welfare of children is or may be in question, it is a function of the Service to—
  - (a) safeguard and promote the welfare of the children,
  - (b) give advice to any court about any application made to it in such proceedings,
  - (c) make provision for the children to be represented in such proceedings,
  - (d) provide information, advice and other support for the children and their families.
- (2) The Service must also make provision for the performance of any functions conferred on officers of the Service by virtue of this Act or any other enactment (whether or not they are exercisable for the purposes of the functions conferred on the Service by subsection (1)).
- (3) Regulations may provide for grants to be paid by the Service to any person for the purpose of furthering the performance of any of the Service's functions.
- (4) The regulations may provide for the grants to be paid on conditions, including conditions—
  - (a) regulating the purposes for which the grant or any part of it may be used,
  - (b) requiring repayment to the Service in specified circumstances.

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- (5) In this section, “family proceedings” has the same meaning as in the <sup>M4</sup>Matrimonial and Family Proceedings Act 1984 and also includes any other proceedings which are family proceedings for the purposes of the <sup>M5</sup>Children Act 1989, but—
- (a) references to family proceedings include (where the context allows) family proceedings which are proposed or have been concluded, [<sup>F3</sup>and]
  - <sup>F3</sup>(b) .....

<p><b>Textual Amendments</b></p> <p><b>F3</b> S. 12(5)(b) repealed (28.11.2003) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 118, <b>Sch. 5</b> (with Sch. 4 paras. 2, 6-8); S.I. 2003/3079, <b>art. 2(1)(c)(d)</b></p> <hr/> <p><b>Modifications etc. (not altering text)</b></p> <p><b>C2</b> S. 12: transfer of functions (12.1.2004) by <a href="#">The Transfer of Functions (Children, Young People and Families) Order 2003 (S.I. 2003/3191)</a>, arts. 1(2), 3, 4</p> <p><b>C3</b> S. 12 power to extend functions conferred by 1989 c. 41, s. 26(2C) (as inserted (21.5.2004) by <a href="#">Adoption and Children Act 2002 (c. 38)</a>, <b>ss. 118(2)</b>, 148(1) (with Sch. 4 paras. 6-8); S.I. 2004/1403, art. 2)</p> <hr/> <p><b>Marginal Citations</b></p> <p><b>M4</b> 1984 c. 42.</p> <p><b>M5</b> 1989 c. 41.</p>
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**13 Other powers of the Service.**

- (1) The Service may make arrangements with organisations under which the organisations perform functions of the Service on its behalf.
- (2) Arrangements under subsection (1) may provide for the organisations to designate individuals who may perform functions of officers of the Service.
- (3) But the Service may only make an arrangement under subsection (1) if it is of the opinion—
  - (a) that the functions in question will be performed efficiently and to the required standard, and
  - (b) that the arrangement represents good value for money.
- (4) The Service may make arrangements with individuals under which they may perform functions of officers of the Service.
- (5) The Service may commission, or assist the conduct of, research by any person into matters concerned with the exercise of its functions.

**14 Provision of staff or services to other organisations.**

- (1) The Service may make arrangements with an organisation or individual under which staff of the Service may work for the organisation or individual.
- (2) The Service may make arrangements with an organisation or individual under which any services provided to the Service by its staff are also made available to the organisation or individual.



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(3) The Service may charge for anything done under arrangements under this section.

## **15 Right to conduct litigation and right of audience.**

- (1) The Service may authorise an officer of the Service of a prescribed description—
- (a) to conduct litigation in relation to any proceedings in any court,
  - (b) to exercise a right of audience in any proceedings before any court,
- in the exercise of his functions.
- (2) An officer of the Service exercising a right to conduct litigation by virtue of subsection (1)(a) who would otherwise have such a right by virtue of section 28(2)(a) of the <sup>M6</sup>Courts and Legal Services Act 1990 is to be treated as having acquired that right solely by virtue of this section.
- (3) An officer of the Service exercising a right of audience by virtue of subsection (1)(b) who would otherwise have such a right by virtue of section 27(2)(a) of the <sup>M7</sup>Courts and Legal Services Act 1990 is to be treated as having acquired that right solely by virtue of this section.
- (4) In this section and section 16, “right to conduct litigation” and “right of audience” have the same meanings as in section 119 of the <sup>M8</sup>Courts and Legal Services Act 1990.

### **Marginal Citations**

- M6** 1990 c. 41.  
**M7** 1990 c. 41.  
**M8** 1990 c. 41.

## **16 Cross-examination of officers of the Service.**

- (1) An officer of the Service may, subject to rules of court, be cross-examined in any proceedings to the same extent as any witness.
- (2) But an officer of the Service may not be cross-examined merely because he is exercising a right to conduct litigation or a right of audience granted in accordance with section 15.

## **17 Inspection.**

- (1) In section 62 of the Justices of the <sup>M9</sup>Peace Act 1997 (inspectors of the magistrates’ courts service), after subsection (3) there is inserted—
- “(3A) It shall also be the duty of inspectors of the magistrates’ courts service—
- (a) to inspect and report to the Lord Chancellor on the performance by the Children and Family Court Advisory and Support Service (referred to in this and the next section as the Service), and the officers of the Service, of their functions; and
  - (b) to discharge, in connection with those functions or with related functions of any other person, such functions as the Lord Chancellor may from time to time direct.”
- (2) In section 63 of that Act (powers of inspectors)—

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(a) after subsection (2) there is inserted—

“(2A) An inspector of the magistrates’ courts service exercising his functions under section 62 above shall also have at all reasonable times—

- (a) a right of entry to any premises occupied by the Service; and
- (b) a right to inspect, and take copies of, any records kept by the Service, and any other documents containing information relating to the performance of the functions of the Service or its officers which he considers relevant to the discharge of his functions.”,

(b) in subsection (3), after “(1)” there is inserted “ or (2A) ” and for “that subsection” there is substituted “ subsection (1) or (2A) above ”.

#### Marginal Citations

M9 1997 c. 25.

## CHAPTER III

### GENERAL

#### *Property and staff*

#### 18 Definitions.

- (1) This section applies for the purposes of sections 19 to 21 and Schedule 3.
- (2) “Eligible employee” means—
  - (a) in relation to a local authority or the Official Solicitor or the Receiver for the Metropolitan Police District, a person who is employed under a contract of employment with the authority, the solicitor or the receiver on work which would have continued but for this Part,
  - (b) in relation to a probation committee, a person (other than a chief probation officer) who is employed under a contract of employment with the committee.
- (3) “New employer” means a local probation board or the Service.
- (4) “Old employer” means a local authority, a probation committee, the Official Solicitor or the Receiver for the Metropolitan Police District.
- (5) “Property” includes rights and interests of any description, other than—
  - (a) those under a contract of employment,
  - (b) land, in the case of transfers to a local board.

#### 19 Property.

- (1) The [<sup>F4</sup>Secretary of State] may by order make a scheme—
  - (a) for the transfer to the [<sup>F4</sup>Secretary of State] or the Service of any property belonging to the old employer,

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- (b) for the transfer to the [<sup>F4</sup>Secretary of State] or the Service of any liabilities to which the old employer is subject,
  - (c) for the transfer of property or liabilities to a new employer after an initial transfer to the [<sup>F4</sup>Secretary of State] under paragraph (a) or (b),
  - (d) for the Service to have any rights or interests which the [<sup>F4</sup>Secretary of State] considers appropriate in relation to any property transferred to the [<sup>F4</sup>Secretary of State] under the scheme.
- (2) Stamp duty is not chargeable in respect of any transfer or grant to the Service effected by virtue of this section.
- (3) No instrument made or executed under or in pursuance of the scheme for the purposes of such a transfer or grant is to be treated as duly stamped unless—
- (a) it is stamped with the duty to which it would, but for this section, be liable, or
  - (b) it has, in accordance with the provisions of section 12 of the <sup>M10</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped.
- (4) Schedule 3 (contents of schemes) applies in relation to a scheme under this section.
- [<sup>F5</sup>(5) For the purposes of stamp duty land tax, a land transaction effected by virtue of this section, under which the purchaser is the Service, is exempt from charge.
- (6) Relief under subsection (5) must be claimed in a land transaction return or an amendment of such a return.
- (7) In this section—
- “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
  - “land transaction return” has the meaning given by section 76(1) of that Act;
  - “purchaser” has the same meaning as in Part 4 of that Act.]

#### Textual Amendments

**F4** Words in s. 19 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(2)**

**F5** S. 19(5)-(7) inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 30**

#### Modifications etc. (not altering text)

**C4** S. 19: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

#### Marginal Citations

**M10** 1891 c. 39.

## 20 Transfer of staff.

- (1) The [<sup>F6</sup>Secretary of State] may by order make a scheme for the transfer to a new employer of any eligible employee.

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- (2) A scheme may also provide for any persons who are employed as chief probation officer under a contract of employment with a probation committee to be appointed (under paragraphs 2 and 3 of Schedule 1) as chief officer of a local probation board.
- (3) A scheme may apply—
  - (a) to all, or any description of, eligible employees or persons so employed, or
  - (b) to any individual eligible employee or person so employed.
- (4) A scheme may be made only if any directions about consultation given by the [F6Secretary of State] have been complied with in relation to each of the eligible employees and chief probation officers to be transferred or appointed in pursuance of the scheme.

#### Textual Amendments

**F6** Words in s. 20 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(2)**

#### Modifications etc. (not altering text)

**C5** S. 20: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

## 21 Effect of transfer of eligible employees.

- (1) The contract of employment of an employee transferred under a scheme—
  - (a) is not terminated by the transfer,
  - (b) has effect from the date of transfer as if originally made between the employee and the transferee.
- (2) Where an employee is transferred under a scheme—
  - (a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are by virtue of this subsection transferred to the transferee on the date of transfer, and
  - (b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

This subsection does not prejudice the generality of subsection (1).
- (3) But if the employee informs the old employer or the transferee that he objects to the transfer—
  - (a) subsections (1) and (2) do not transfer his contract of employment, or the rights, powers, duties and liabilities under or in connection with it, and
  - (b) the contract of employment is terminated immediately before the date of transfer.
- (4) An employee is not to be treated, for the purposes of the <sup>M11</sup>Employment Rights Act 1996, as having been dismissed by the old employer by reason of—
  - (a) the transfer of his contract of employment under a scheme, or
  - (b) the termination of his contract of employment by virtue of subsection (3).

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(5) Subject to subsection (4), where an employee’s contract of employment with a probation committee is not transferred under a scheme, it is terminated immediately before the date on which the committee ceases to exist; and the employee is to be treated, for the purposes of the <sup>M12</sup>Employment Rights Act 1996, as having been dismissed by the committee.

(6) This section does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions.

But no such right arises by reason only that, by virtue of this section, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(7) In this section—

“date of transfer” means the date of transfer determined under the scheme in relation to the employee,

“scheme” means a scheme made by virtue of section 20,

“transferee” means the new employer to whom the employee is or would be transferred under the scheme.

#### Marginal Citations

**M11** 1996 c. 18.

**M12** 1996 c. 18.

## 22 Effect of transfer of chief probation officers.

(1) This section applies where a scheme made by virtue of section 20 provides for a person who is employed as chief probation officer under a contract of employment with a probation committee to be appointed as chief officer of a local probation board.

(2) The officer’s period of employment with the committee counts as a period of employment in his Crown employment and the appointment does not break the continuity of that employment.

(3) So far as it is consistent with appointment under paragraphs 2 and 3 of Schedule 1, the terms and conditions of the officer’s contract of employment have effect on and after his appointment as if they were terms and conditions of his Crown employment.

(4) Section 21(2) applies, with the necessary modifications, in relation to the officer as it applies in relation to an employee of a probation committee whose contract of employment is transferred to the local probation board.

(5) The officer is not to be treated, for the purposes of the <sup>M13</sup>Employment Rights Act 1996, as having been dismissed by the probation committee by reason of his appointment.

(6) But if the officer informs the probation committee or the Secretary of State that he objects to the appointment, subsections (2) to (5) do not apply.

(7) Where the officer is not appointed as chief officer of a local probation board (whether because he objects to the appointment or for any other reason), his contract of employment is terminated immediately before the date on which the committee ceases

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to exist; and he is to be treated, for the purposes of the <sup>M14</sup>Employment Rights Act 1996, as having been dismissed by the committee.

- (8) In this section, “Crown employment” means the employment which the chief officer of a local probation board is to be treated as employed in, for the purposes of the <sup>M15</sup>Employment Rights Act 1996, by virtue of paragraph 3(5) of Schedule 1 to this Act.

#### Marginal Citations

**M13** 1996 c. 18.

**M14** 1996 c. 18.

**M15** 1996 c. 18.

### 23 Transfer of staff in consequence of arrangements under Part I.

- (1) This section applies where, by reason of the implementation or termination of any arrangements under section 5, 8 or 13, any functions exercisable by any person (the “old employer”) become exercisable by another person (whether on behalf, or instead, of the old employer).
- (2) The [<sup>F7</sup>Secretary of State] may by order make a scheme for the transfer to the other person (the “transferee”) of any person (an “eligible employee”) employed under a contract of employment with the transferor on work which would have continued but for the implementation or termination of the arrangements.
- (3) A scheme may apply—
- to all, or any description of, eligible employees, or
  - to any individual eligible employee.
- (4) A scheme may be made only if any directions about consultation given by the [<sup>F7</sup>Secretary of State] have been complied with in relation to each of the eligible employees to be transferred in pursuance of the scheme.
- (5) Section 21 (except subsection (5) and the definitions of “scheme” and “transferee”) applies to a scheme made by virtue of this section as it applies to a scheme made by virtue of section 20, and as if “old employer” and “transferee” had the same meanings as in this section.

#### Textual Amendments

**F7** Words in s. 23 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(2)**

#### Modifications etc. (not altering text)

**C6** S. 23: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

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### *Provision for the protection of children*

#### **24 Provision for the protection of children.**

- (1) The <sup>M16</sup>Protection of Children Act 1999 (“the 1999 Act”) shall have effect as if the Service were a child care organisation within the meaning of that Act.
- (2) Arrangements which the Service makes with an organisation under section 13(1) must provide that, before selecting an individual to be employed under the arrangements in a child care position, the organisation—
  - (a) must ascertain whether the individual is included in any of the lists mentioned in section 7(1) of the 1999 Act, and
  - (b) if he is included in any of those lists, must not select him for that employment.
- (3) Such arrangements must provide that, if at any time the organisation has power to refer a relevant individual to the Secretary of State under section 2 of the 1999 Act (inclusion in list on reference following disciplinary action etc.), the organisation must so refer him.

In this subsection, “relevant individual” means an individual who is or has been employed in a child care position under the arrangements.

- (4) In this section, “child care position” and “employment” have the same meanings as in the 1999 Act.

#### **Marginal Citations**

**M16** 1999 c. 14.

### *Interpretation*

#### **25 Interpretation of Part I.**

In this Part—

<sup>F8</sup>  
...

“approved premises” means premises approved under section 9,

“by virtue of” includes by or under,

“organisation” includes a public body and a private or voluntary organisation,

“prescribed” means prescribed by regulations,

“regulations” means—

- (a) [<sup>F9</sup>in the case of regulations under section 15, regulations made by the Lord Chancellor, and]
- (b) [<sup>F9</sup>in any other case, regulations made by the Secretary of State.]

#### **Textual Amendments**

**F8** Words in s. 25 omitted (12.1.2004) by virtue of [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), [Sch. para. 4\(3\)\(a\)](#)



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- F9** Words in s. 25 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), [Sch. para. 4\(3\)\(b\)](#)

## PART II

### PROTECTION OF CHILDREN

#### *Disqualification orders*

#### **26 Meaning of “offence against a child”.**

- (1) For the purposes of this Part, an individual commits an offence against a child if—
- he commits any offence mentioned in paragraph 1 of Schedule 4,
  - he commits against a child any offence mentioned in paragraph 2 of that Schedule, or
  - he falls within paragraph 3 of that Schedule,
- and references to being convicted of, or charged with, an offence against a child are to be read accordingly.
- (2) The Secretary of State may by order amend Schedule 4 so as to add, modify or omit any entry.

#### **Extent Information**

- E1** s.26 extends to UK. See s.81(1)(2)(a) for the extent

#### **27 Equivalent armed forces offences.**

- (1) For the purposes of this Part, an individual is treated as being convicted of or (as the case may be) charged with an offence against a child if he is convicted of or charged with an equivalent armed forces offence.
- (2) In subsection (1), “equivalent armed forces offence” means an armed forces offence constituted by an act or omission which—
- is an offence against a child, or
  - would, if committed in England or Wales, be an offence against a child.
- (3) In that subsection, “equivalent armed forces offence” also includes a civil offence of attempting to commit—
- an offence against a child, or
  - an act that would, if committed in England or Wales, be an offence against a child.
- (4) For the purpose of determining whether an offence is an equivalent armed forces offence, Schedule 4 shall have effect as if the words “or attempting” were omitted from paragraph 3(t).
- (5) In this section, “civil offence” has the same meaning as in the <sup>M17</sup>Army Act 1955.



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#### Extent Information

**E2** s.27 extends to UK. see s.81(1)(2)(a) for the extent

#### Marginal Citations

**M17** 1955 c. 18.

### 28 Disqualification from working with children: adults.

- (1) This section applies where either of the conditions set out below is satisfied in the case of an individual.
- (2) The first condition is that—
  - (a) the individual is convicted of an offence against a child committed when he was aged 18 or over, and
  - (b) a qualifying sentence is imposed by a senior court in respect of the conviction.
- (3) The second condition is that—
  - (a) the individual is charged with an offence against a child committed when he was aged 18 or over, and
  - (b) a relevant order is made by a senior court in respect of the act or omission charged against him as the offence.
- (4) Subject to subsection (5), the court must order the individual to be disqualified from working with children.
- (5) An order shall not be made under this section if the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offence against a child.
- (6) If the court does not make an order under this section, it must state its reasons for not doing so and cause those reasons to be included in the record of the proceedings.

#### Extent Information

**E3** s.28 extends to UK. see s.81(1)(2)(a) for the extent

### 29 Disqualification from working with children: juveniles.

- (1) This section applies where either of the conditions set out below is satisfied in the case of an individual.
- (2) The first condition is that—
  - (a) the individual is convicted of an offence against a child committed at a time when the individual was under the age of 18, and
  - (b) a qualifying sentence is imposed by a senior court in respect of the conviction.
- (3) The second condition is that—
  - (a) the individual is charged with an offence against a child committed at a time when the individual was under the age of 18, and

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- (b) a relevant order is made by a senior court in respect of the act or omission charged against him as the offence.
- (4) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it must order the individual to be disqualified from working with children.
- (5) If the court makes an order under this section, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.

#### Extent Information

**E4** s.29 extends to UK. see s.81(1)(2)(a) for the extent

### [<sup>F10</sup>29A Disqualification at discretion of court: adults and juveniles

- (1) This section applies where—
- an individual is convicted of an offence against a child (whether or not committed when he was aged 18 or over),
  - the individual is sentenced by a senior court, and
  - no qualifying sentence is imposed in respect of the conviction.
- (2) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it may order the individual to be disqualified from working with children.
- (3) If the court makes an order under this section, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.

#### Textual Amendments

**F10** Ss. 29A, 29B inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 2](#); [S.I. 2004/829](#), art. 3(1)(2)(a)

### 29B Subsequent application for order under section 28 or 29

- (1) Where—
- section 28 applies but the court has neither made an order under that section nor complied with subsection (6) of that section, or
  - section 29 applies but the court has not made an order under that section, and it appears to the prosecutor that the court has not considered the making of an order under that section,
- the prosecutor may at any time apply to that court for an order under section 28 or 29.
- (2) Subject to subsection (3), on an application under subsection (1)—
- in a case falling within subsection (1)(a), the court—
    - must make an order under section 28 unless it is satisfied as mentioned in subsection (5) of that section, and
    - if it does not make an order under that section, must comply with subsection (6) of that section,
  - in a case falling within subsection (1)(b), the court—

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- (i) must make an order under section 29 if it is satisfied as mentioned in subsection (4) of that section, and
  - (ii) if it does so, must comply with subsection (5) of that section.
- (3) Subsection (2) does not enable or require an order under section 28 or 29 to be made where the court is satisfied that it had considered the making of an order under that section at the time when it imposed the qualifying sentence or made the relevant order.]

#### Textual Amendments

**F10** Ss. 29A, 29B inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 30 para. 2](#); [S.I. 2004/829, art. 3\(1\)\(2\)\(a\)](#)

### 30 Sections 28 [F11 to 29B] : supplemental.

- (1) In sections 28 [F12 to 29B] and this section—
- “guardianship order” means a guardianship order within the meaning of the <sup>M18</sup>Army Act 1955, the <sup>M19</sup>Air Force Act 1955, the <sup>M20</sup>Naval Discipline Act 1957 or the <sup>M21</sup>Mental Health Act 1983,
- “qualifying sentence” means—
- (a) a sentence of imprisonment for a term of 12 months or more,
  - (b) a sentence of detention in a young offender institution for a term of 12 months or more,
  - (c) a sentence of detention during Her Majesty’s pleasure,
  - (d) a sentence of detention for a period of 12 months or more under section 91 of the <sup>M22</sup>Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences),
  - (dd) [F13 a sentence of detention under section 226 or 228 of the Criminal Justice Act 2003,]
  - (e) a detention and training order for a term of 12 months or more,
  - (f) a sentence of detention for a term of 12 months or more imposed by a court-martial or the Courts-Martial Appeal Court,
  - (g) a hospital order within the meaning of the <sup>M23</sup>Mental Health Act 1983, or
  - (h) a guardianship order,
- “relevant order” means—
- (a) an order made by the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court that the individual in question be admitted to hospital, or
  - (b) a guardianship order,
- “senior court” means the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court.
- (2) The reference to detention in paragraph (f) of the above definition of “qualifying sentence” includes a reference to detention by virtue of a custodial order under—
- (a) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M24</sup>Army Act 1955,
  - (b) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M25</sup>Air Force Act 1955,
  - (c) section 43AA of, or paragraph 10 of Schedule 4A to, the <sup>M26</sup>Naval Discipline Act 1957.

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- (3) In this Part, references to a sentence of imprisonment, or to a sentence of detention imposed by a court-martial or the Courts-Martial Appeal Court, include references to a suspended sentence.
- (4) If, for the purpose of making an order under section 28 or 29, the court determines, after considering any available evidence, that an individual was, or was not, under the age of 18 at the time when the offence in question was committed, his age at that time shall be taken, for the purposes of that sections (and in particular for the purpose of determining any question as to the validity of the order), to be that which the court determined it to be.
- (5) Below in this Part—
- (a) references to a disqualification order are to an order under section 28 [<sup>F14</sup>, 29 or 29A] ,
  - (b) in relation to an individual on whom a sentence has been passed, or in relation to whom an order has been made, as mentioned in subsection (2) or (3) of section 28 or 29, references to his sentence are to that sentence or order.
  - [<sup>F15</sup>(c) in relation to an individual to whom section 29A applies and on whom a sentence has been passed, references to his sentence are to that sentence.]

#### Extent Information

**E5** S. 30 extends to UK. See s. 81(1)(2)(a) for the extent

#### Textual Amendments

- F11** Words in s. 30 heading substituted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(2\)](#); S.I. 2004/829, art. 3(1)(2)(a)
- F12** Words in s. 30(1) substituted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(3\)\(a\)](#); S.I. 2004/829, art. 3(1)(2)(a)
- F13** Words in s. 30(1) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(3\)\(b\)](#); S.I. 2004/829, art. 3(1)(2)(a)
- F14** Words in s. 30(5)(a) substituted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(4\)\(a\)](#); S.I. 2004/829, art. 3(1)(2)(a)
- F15** S. 30(5)(c) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 3\(4\)\(b\)](#); S.I. 2004/829, art. 3(1)(2)(a)

#### Marginal Citations

- M18** 1955 c. 18.  
**M19** 1955 c. 19.  
**M20** 1957 c. 53.  
**M21** 1983 c. 20.  
**M22** 2000 c. 6.  
**M23** 1983 c. 20.  
**M24** 1955 c. 18.  
**M25** 1955 c. 19.  
**M26** 1957 c. 53.

## 31 Appeals.

- (1) An individual may appeal against a disqualification order—

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- (a) where the first condition mentioned in section 28 or 29 is satisfied in his case, as if the order were a sentence passed on him for the offence of which he has been convicted,
  - (b) where the second condition mentioned in section 28 or 29 is satisfied in his case, as if he had been convicted of an offence on indictment and the order were a sentence passed on him for the offence.
  - [<sup>F16</sup>(c) where an order is made under section 29A, as if the order were a sentence passed on him for the offence of which he has been convicted.]
- (2) In relation to a disqualification order made by a court-martial, subsection (1)(b) has effect as if the reference to conviction on indictment were a reference to conviction by a court-martial.

#### Extent Information

**E6** s.31 extends to UK.see s.81(1)(2)(a) for the extent

#### Textual Amendments

**F16** S. 31(1)(c) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 4](#); [S.I. 2004/829](#), art. 3(1)(2)(a)

### 32 Review of disqualification.

- (1) Subject to section 33, an individual who is subject to a disqualification order may make an application to the Tribunal under this section.
- (2) On an application under this section the Tribunal must determine whether or not the individual is to continue to be subject to the order.
- (3) If the Tribunal is satisfied that the individual is suitable to work with children, it must direct that the order is to cease to have effect; otherwise it must dismiss the application.

#### Extent Information

**E7** s.32 extends to UK.see s.81(1)(2)(a) for the extent

### 33 Conditions for application under section 32.

- (1) An individual may only make an application under section 32 with the leave of the Tribunal.
- (2) An application for leave under this section may not be made unless the appropriate conditions are satisfied in the individual's case.
- (3) In the case of an individual who was under the age of 18 when he committed the offence against a child, the appropriate conditions are satisfied if—
  - (a) at least five years have elapsed since the relevant date, and
  - (b) in the period of five years ending with the time when he makes the application under this section, he has made no other such application.
- (4) In the case of any other individual, the appropriate conditions are satisfied if—
  - (a) at least ten years have elapsed since the relevant date, and

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- (b) in the period of ten years ending with the time when he makes the application under this section, he has made no other such application.
- (5) The Tribunal may not grant an application under this section unless it considers—
- (a) that the individual’s circumstances have changed since the order was made or, as the case may be, since he last made an application under this section, and
- (b) that the change is such that leave should be granted.
- (6) In this section, “the relevant date” means—
- (a) in relation to an individual whose sentence is an actual term of custody, the day on which he is released or, if later, the day on which the disqualification order is made,
- (b) in relation to an individual whose sentence is suspended and does not take effect, the day on which the disqualification order is made,
- (c) in relation to an individual whose sentence is an order for admission to hospital—
- (i) if he is detained in a hospital pursuant to the order, the day on which he ceases to be liable to be detained there, or
- (ii) if he is not so detained, the day on which the disqualification order is made,
- (d) in relation to an individual whose sentence is a guardianship order, the day on which the disqualification order is made.
- [<sup>F17</sup>(e) in relation to an individual not falling within any of paragraphs (a) to (d), the day on which the disqualification order is made.]
- (7) In this section—
- “actual term of custody” means a term of imprisonment or detention which is not suspended, or is suspended but takes effect,
- “guardianship order” has the same meaning as in section 30,
- “order for admission to hospital” means—
- (a) an order made by the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court that the individual be admitted to hospital, or
- (b) a hospital order within the meaning of the <sup>M27</sup>Mental Health Act 1983.
- [<sup>F18</sup>(8) In subsection (7) “detention” means detention (or detention and training)—
- (a) under any sentence or order falling within paragraphs (b) to (f) of the definition of “qualifying sentence” in section 30(1), or
- (b) under any sentence or order which would fall within those paragraphs if it were for a term or period of 12 months or more.]

#### Extent Information

**E8** s.33 extends to UK.see s.81(1)(2)(a) for the extent

#### Textual Amendments

**F17** S. 33(6)(e) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 5\(2\)](#); [S.I. 2004/829](#), art. 3(1)(2)(a)

**F18** S. 33(8) substituted (E.W.)(1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 30 para. 5\(3\)](#); [S.I. 2004/829](#), art. 3(1)(2)(a)

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### Marginal Citations

M27 1983 c. 20.

## 34 Restoration of disqualification order.

- (1) If it appears to a chief officer of police or a director of social services of a local authority that the conditions set out in subsection (2) are satisfied in the case of an individual, the chief officer or (as the case may be) the director may apply to the High Court for an order under this section to be made in respect of the individual.
- (2) The conditions are that—
  - (a) a disqualification order made in respect of the individual is no longer in force, and
  - (b) the individual has acted in such a way (whether before or after the order ceased to be in force) as to give reasonable cause to believe that an order under this section is necessary to protect children in general, or any children in particular, from serious harm from him.
- (3) An application under this section may be made at any time after the disqualification order ceased to be in force.
- (4) If the High Court is satisfied that the conditions set out in subsection (2) are satisfied, it must order that the disqualification order is to be restored; otherwise it must dismiss the application.
- (5) Where an order is made under this section, section 33 has effect with the following modifications—
  - (a) in subsection (3), the reference to the individual being under the age of 18 when he committed the offence against a child is to be read as a reference to his being under that age when the order under this section was made,
  - (b) in subsections (3)(a) and (4)(a), references to the relevant date are to be read as references to the date on which the order under this section was made,
  - (c) in subsection (5)(a), the reference to the individual's circumstances changing since the disqualification order was made is to be read as a reference to his circumstances changing since the order under this section was made.
- (6) For the purposes of this section a disqualification order is no longer in force if a direction under section 32(3) has been given in respect of it and it is not restored by virtue of an order under this section.

### *Effect of disqualification from working with children*

## 35 Persons disqualified from working with children: offences.

- (1) An individual who is disqualified from working with children is guilty of an offence if he knowingly applies for, offers to do, accepts or does any work in a regulated position.
- (2) An individual is guilty of an offence if he knowingly—
  - (a) offers work in a regulated position to, or procures work in a regulated position for, an individual who is disqualified from working with children, or
  - (b) fails to remove such an individual from such work.



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- (3) It is a defence for an individual charged with an offence under subsection (1) to prove that he did not know, and could not reasonably be expected to know, that he was disqualified from working with children.
- (4) An individual is disqualified from working with children for the purposes of this Part if—
- (a) he is included (otherwise than provisionally) in the list kept under section 1 of the <sup>M28</sup>Protection of Children Act 1999 (individuals considered unsuitable to work with children),
  - [<sup>F19</sup>(b) he is subject to a direction under section 142 of the Education Act 2002 (prohibition from teaching, &c. given on the grounds that he is unsuitable to work with children,]
  - (c) he is included, on the grounds that he is unsuitable to work with children, in any list kept by the Secretary of State or the National Assembly for Wales of persons disqualified under section 470 or 471 of the <sup>M29</sup>Education Act 1996, or
  - (d) he is subject to a disqualification order.
- <sup>F20</sup>(5) .....
- (6) An individual who is guilty of an offence under this section is 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 five years, or to a fine, or to both.

#### Textual Amendments

**F19** S. 35(4)(b) substituted (31.3.2003 for W., 1.6.2003 for E.) by 2002 c. 32, s. 206, **Sch. 21 para. 128(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5, **Sch. Pt. II**; S.I. 2003/1115, **art. 3**

**F20** S. 35(5) repealed (31.3.2003 for W., 1.6.2003 for E.) by 2002 c. 32, s. 206, 215(2), Sch. 21 para. 128(3), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3158, art. 5, **Sch. Pt. II**; S.I. 2003/1115, **art. 3**

#### Modifications etc. (not altering text)

**C7** S. 35 applied (7.3.2005) by **The Disqualification from Working with Children (Scotland) Order 2005** (S.I. 2005/267), arts. 1, 2

#### Marginal Citations

**M28** 1999 c. 14.

**M29** 1996 c. 56.

### 36 Meaning of “regulated position”.

- (1) The regulated positions for the purposes of this Part are—
- (a) a position whose normal duties include work in an establishment mentioned in subsection (2),
  - (b) a position whose normal duties include work on day care premises,
  - (c) a position whose normal duties include caring for, training, supervising or being in sole charge of children,



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- (d) a position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person,
  - (e) a position whose normal duties include caring for children under the age of 16 in the course of the children’s employment,
  - (f) a position a substantial part of whose normal duties includes supervising or training children under the age of 16 in the course of the children’s employment,
  - (g) a position mentioned in subsection (6),
  - (h) a position whose normal duties include supervising or managing an individual in his work in a regulated position.
- (2) The establishments referred to in subsection (1)(a) are—
- (a) an institution which is exclusively or mainly for the detention of children,
  - (b) a hospital which is exclusively or mainly for the reception and treatment of children,
  - (c) a care home, residential care home, nursing home or private hospital which is exclusively or mainly for children,
  - (d) an educational institution,
  - (e) a children’s home or voluntary home,
  - (f) a home provided under section 82(5) of the <sup>M30</sup>Children Act 1989.
- (3) For the purposes of this section, work done on any premises is treated as not being done on day care premises to the extent that—
- (a) it is done in a part of the premises in which children are not looked after, or
  - (b) it is done at times when children are not looked after there.
- (4) The duties referred to in subsection (1)(c) and (d) do not include (respectively)—
- (a) caring for, training, supervising or being in sole charge of children in the course of the children’s employment, or
  - (b) duties involving contact with children in the course of the children’s employment.
- (5) The reference in subsection (1)(d) to unsupervised contact is to contact in the absence of any responsible person or carer; and in this subsection, “carer” means a person who holds a position such as is mentioned in subsection (1)(c).
- (6) The positions mentioned in subsection (1)(g) are—
- (a) member of the governing body of an educational institution,
  - (b) member of a relevant local government body,
  - (c) director of social services of a local authority,
  - (d) chief education officer of a local education authority,
  - (e) charity trustee of a children’s charity,
  - (f) member of the Youth Justice Board for England and Wales,
  - [<sup>F21</sup>(fa) Children’s Commissioner and deputy Children’s Commissioner appointed under Part 1 of the Children Act 2004,]
  - (g) Children’s Commissioner for Wales or deputy Children’s Commissioner for Wales,
  - (h) member, or chief executive, of the Children and Family Court Advisory and Support Service.

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- (7) For the purposes of subsection (6), a person is a member of a relevant local government body if—
- (a) he is a member of, or of an executive of, a local authority and discharges any education functions, or social services functions, of a local authority,
  - (b) he is a member of an executive of a local authority which discharges any such functions,
  - (c) he is a member of—
    - (i) a committee of an executive of a local authority, or
    - (ii) an area committee, or any other committee, of a local authority, which discharges any such functions.
- (8) In its application to Northern Ireland, subsection (6) is to be read as mentioning also the following positions—
- (a) member, or director of social services, of a Health and Social Services Board established under Article 16 of the <sup>M31</sup>Health and Personal Social Services (Northern Ireland) Order 1972,
  - (b) member, or executive director of social work, of a Health and Social Services trust established under Article 10 of the <sup>M32</sup>Health and Personal Social Services (Northern Ireland) Order 1991,
  - (c) member, or chief education officer, of an education and library board established under Article 3 of the <sup>M33</sup>Education and Libraries (Northern Ireland) Order 1986.
  - <sup>F22</sup>(d) Commissioner for Children and Young People for Northern Ireland appointed under the Commissioner for Children and Young People (Northern Ireland) Order 2003.]
- (9) Any reference in subsection (7) to a committee includes a reference to any sub-committee which discharges any functions of that committee.
- (10) For the purposes of subsection (1)(h), the holder of a position—
- (a) only supervises an individual if he supervises the day-to-day performance of the individual's duties, and
  - (b) only manages an individual if the individual is directly responsible to him for the performance of his duties or he has authority to dismiss the individual.
- (11) For the purposes of this section, a charity is a children's charity if the individuals who are workers for the charity normally include individuals working in regulated positions.
- (12) For the purposes of this section, an individual is a worker for a charity if he does work under arrangements made by the charity; but the arrangements referred to in this subsection do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.
- (13) For the purposes of this section, the following are responsible persons in relation to a child—
- (a) the child's parent or guardian and any adult with whom the child lives,
  - (b) the person in charge of any establishment mentioned in subsection (2) in which the child is accommodated, is a patient or receives education, and any person acting on behalf of such a person,
  - (c) a person registered under Part XA of the <sup>M34</sup>Children Act 1989 for providing day care on premises on which the child is cared for, and

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(d) any person holding a position mentioned in subsection (6).

(14) In this section—

“area committee” has the same meaning as in section 18 of the <sup>M35</sup>Local Government Act 2000,

“detention” means detention by virtue of an order of a court or under an enactment,

“education functions”, in relation to a local authority, means any functions with respect to education which are conferred on the authority in its capacity as a local education authority,

“executive”, in relation to a local authority, has the same meaning as in Part II of the Local Government Act 2000,

“social services functions”, in relation to a local authority, has the same meaning as in the <sup>M36</sup>Local Authority Social Services Act 1970.

(15) For the purpose of amending the definition of “regulated position”, the Secretary of State may by order make any amendment of this section (apart from this subsection) which he thinks appropriate.

#### Textual Amendments

**F21** S. 36(6)(fa) inserted (15.11.2004) by Children Act 2004 (c. 31), s. 67(1), **Sch. 1 para. 11**

**F22** S. 36(8)(d) added (14.3.2003) by The Commissioner for Children and Young People (Northern Ireland) Order 2003 (S.I. 2003/439), art. 1(2)(b), **Sch. 2 para. 16** (with art. 27)

#### Marginal Citations

**M30** 1989 c. 41.

**M31** S.I. 1972/1265 (N.I. 14).

**M32** S.I. 1991/194 (N.I. 1).

**M33** S.I. 1986/594 (N.I. 3).

**M34** 1989 c. 41.

**M35** 2000 c. 22.

**M36** 1970 c. 42.

### 37 Disqualification in Scotland or Northern Ireland.

- (1) The Secretary of State may by order provide that section 35 shall apply in relation to an individual falling within subsection (2) as it applies in relation to an individual who is disqualified from working with children.
- (2) An individual falls within this subsection if, under the law of Scotland or Northern Ireland, he is subject to a prohibition or disqualification which, in the opinion of the Secretary of State, corresponds to disqualification (by any of the means mentioned in section 35(4)) from working with children.

### 38 Rehabilitation of offenders.

- (1) Where a disqualification order is made in respect of an individual’s conviction of an offence, the rehabilitation period which, in accordance with section 6 of the <sup>M37</sup>Rehabilitation of Offenders Act 1974, is applicable to the conviction is to be determined as if that order had not been made; and a disqualification order is not a sentence for the purposes of that Act.

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(2) In this section, “conviction” has the same meaning as in that Act.

#### Marginal Citations

M37 1974 c. 53.

### *Indecent conduct towards children*

#### <sup>F23</sup>39 Extension of offence: conduct towards 14 and 15 year olds.

#### Textual Amendments

**F23** S. 39 repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, Sch. 6 para. 44(2), [Sch. 7](#); [S.I. 2004/874](#), art. 2

#### 40 Extension of corresponding Northern Ireland offence: conduct towards 14 to 16 year olds.

- (1) The Children and Young Persons Act (Northern Ireland) 1968 is amended as follows.
- (2) At the end of section 22 (indecent conduct towards child) there is inserted—
- “(2) In this section, “child” means a person under the age of seventeen.”
- (3) In section 180(1) (interpretation), in the definition of “child”—
- (a) after “ “child”” there is inserted “ , except when used in section 22, ”, and
  - (b) at the end there is inserted “ and, when used in section 22, has the meaning assigned to it by that section ”.

### *Indecent photographs of children: increase of maximum penalties*

#### 41 Indecent photographs of children: increase of maximum penalties.

- (1) In section 6(2) of the <sup>M38</sup>Protection of Children Act 1978 (punishments), for “three” there is substituted “ ten ”.
- (2) In Article 3(4)(a) of the <sup>M39</sup>Protection of Children (Northern Ireland) Order 1978 (indecent photographs of children), for “three” there is substituted “ ten ”.
- (3) In section 160 of the <sup>M40</sup>Criminal Justice Act 1988 (summary offence of possession of indecent photograph of child)—
  - (a) after subsection (2) there is inserted—
 

“(2A) A person shall be liable on conviction on indictment of an offence under this section to imprisonment for a term not exceeding five years or a fine, or both.”,
  - (b) for the sidenote there is substituted “ Possession of indecent photograph of child ”.

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(4) In Article 15 of the <sup>M41</sup>Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (summary offence of possession of indecent photograph of child)—

(a) after paragraph (2) there is inserted—

“(2A) A person shall be liable on conviction on indictment of an offence under paragraph (1) to imprisonment for a term not exceeding five years or a fine, or both.”,

(b) for the heading there is substituted “ Possession of indecent photograph of child ”.

#### Marginal Citations

**M38** 1978 c. 37.

**M39** S.I. 1978/1047 (N.I. 17).

**M40** 1988 c. 33.

**M41** S.I. 1988/1847 (N.I. 17).

### General

## 42 Interpretation of Part II.

(1) In this Part—

“armed forces offence” means an offence under section 70 of the <sup>M42</sup>Army Act 1955, section 70 of the <sup>M43</sup>Air Force Act 1955 or section 42 of the <sup>M44</sup>Naval Discipline Act 1957,

“care home” has the same meaning as in the <sup>M45</sup>Care Standards Act 2000,

“charity” and “charity trustee” have the same meanings as in the <sup>M46</sup>Charities Act 1993,

“child” means a person under the age of 18,

“children’s home” has—

(a) in relation to England and Wales, the same meaning as in the Care Standards Act 2000,

(b) in relation to Northern Ireland, the meaning which would be given by Article 90(1) of the <sup>M47</sup>Children (Northern Ireland) Order 1995 if, in Article 91(2) of that Order, sub-paragraphs (a), (f) and (g) and the words after sub-paragraph (h) were omitted,

“Class A drug” has the same meaning as in the <sup>M48</sup>Misuse of Drugs Act 1971,

“day care premises” means premises in respect of which a person is registered under Part XA of the <sup>M49</sup>Children Act 1989 for providing day care,

“disqualification order” has the meaning given by section 30,

“educational institution” means an institution which is exclusively or mainly for the provision of full-time education to children,

“employment” means paid employment, whether under a contract of service or apprenticeship or under a contract for services,

“hospital” has—

(a) in relation to England and Wales, the meaning given by section 128(1) of the <sup>M50</sup>National Health Service Act 1977,

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- (b) in relation to Northern Ireland, the meaning given by Article 2(2) of the <sup>M51</sup>Health and Personal Social Services (Northern Ireland) Order 1972, “local authority” has the same meaning as in the <sup>M52</sup>Education Act 1996, “nursing home” has the meaning given by Article 16 of the <sup>M53</sup>Registered Homes (Northern Ireland) Order 1992, “private hospital” has the meaning given by Article 90(2) of the <sup>M54</sup>Mental Health (Northern Ireland) Order 1986, “residential care home” has the meaning given by Article 3 of the <sup>M55</sup>Registered Homes (Northern Ireland) Order 1992, “the Tribunal” means the tribunal established by section 9 of the <sup>M56</sup>Protection of Children Act 1999, “voluntary home” has the meaning given by Article 74(1) of the <sup>M57</sup>Children (Northern Ireland) Order 1995, “work” includes—
- (a) work of any kind, whether paid or unpaid and whether under a contract of service or apprenticeship, under a contract for services, or otherwise than under a contract, and
  - (b) an office established by or by virtue of an enactment, and “working” is to be read accordingly.
- (2) In this Part references, in relation to a suspended sentence, to taking effect are to taking effect by virtue of—
- (a) an order or direction under section 91 of the <sup>M58</sup>Naval Discipline Act 1957 or section 119 of the <sup>M59</sup>Powers of Criminal Courts (Sentencing) Act 2000, or
  - (b) the determination of the suspension under section 120 of the <sup>M60</sup>Army Act 1955 or section 120 of the <sup>M61</sup>Air Force Act 1955.

#### Marginal Citations

<b>M42</b>	1955 c. 18.
<b>M43</b>	1955 c. 19.
<b>M44</b>	1957 c. 53.
<b>M45</b>	2000 c. 14.
<b>M46</b>	1993 c. 10.
<b>M47</b>	S.I. 1995/755 (N.I. 2).
<b>M48</b>	1971 c. 38.
<b>M49</b>	1989 c. 41.
<b>M50</b>	1977 c. 49.
<b>M51</b>	S.I. 1972/1265 (N.I. 14).
<b>M52</b>	1996 c. 56.
<b>M53</b>	S.I. 1992/3204 (N.I. 20).
<b>M54</b>	S.I. 1986/595 (N.I. 4).
<b>M55</b>	S.I. 1992/3204 (N.I. 20).
<b>M56</b>	1999 c. 14.
<b>M57</b>	S.I. 1995/755 (N.I. 2).
<b>M58</b>	1957 c. 53.
<b>M59</b>	2000 c. 6.
<b>M60</b>	1955 c. 18.
<b>M61</b>	1955 c. 19.

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## PART III

### DEALING WITH OFFENDERS

#### CHAPTER I

##### COMMUNITY SENTENCES

###### *Renaming certain community orders*

#### **43 Probation orders renamed community rehabilitation orders.**

- (1) An order under subsection (1) of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 (probation orders), whenever made, is to be referred to as a community rehabilitation order.
- (2) References in any enactment, instrument or document to a community rehabilitation order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.
- (3) Accordingly—
  - (a) in subsection (2) of that section, for “ “probation order” ” there is substituted “ “community rehabilitation order” ”, but
  - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.
- (4) References in any enactment, instrument or document to a probation order—
  - (a) are to an order under any provision corresponding to section 41(1) of that Act which is repealed by that Act, and
  - (b) include (where the context allows) an order under that subsection.
- (5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate place there is inserted—

“ “community rehabilitation order” has the meaning given by section 43 of the Criminal Justice and Court Services Act 2000”.

#### **44 Community service orders renamed community punishment orders.**

- (1) An order under subsection (1) of section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 (community service orders), whenever made, is to be referred to as a community punishment order.
- (2) References in any enactment, instrument or document to a community punishment order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.
- (3) Accordingly—
  - (a) in subsection (2) of that section, for “ “community service order” ” there is substituted “ “community punishment order” ”, but
  - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.

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- (4) References in any enactment, instrument or document to a community service order—
- (a) are to an order under any provision corresponding to section 46(1) of that Act which is repealed by that Act, and
  - (b) include (where the context allows) an order under that subsection.
- (5) In section 163 of the <sup>M62</sup>Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), in the definition of “community service order”—
- (a) for “service” there is substituted “punishment”,
  - (b) for the words from “means” to the first mention of “above” there is substituted “has the meaning given by section 44 of the Criminal Justice and Court Services Act 2000”,
- and that definition is moved to follow the definition of “community order”.

#### Marginal Citations

M62 2000 c. 6.

#### 45 Combination orders renamed community punishment and rehabilitation orders.

- (1) An order under subsection (1) of section 51 of the Powers of Criminal Courts (Sentencing) Act 2000 (combination orders), whenever made, is to be referred to as a community punishment and rehabilitation order.
- (2) References in any enactment, instrument or document to a community punishment and rehabilitation order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.
- (3) Accordingly—
- (a) in subsection (2) of that section, for ““combination order”” there is substituted ““community punishment and rehabilitation order””, but
  - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.
- (4) References in any enactment, instrument or document to a combination order—
- (a) are to an order under any provision corresponding to section 51(1) of that Act which is repealed by that Act, and
  - (b) include (where the context allows) an order under that subsection.
- (5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate place there is inserted—
- ““community punishment and rehabilitation order” has the meaning given by section 45 of the Criminal Justice and Court Services Act 2000”.

#### *New community orders*

#### 46 Exclusion orders.

After section 40 of the <sup>M63</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—



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### “ Exclusion orders

#### **40A Exclusion orders.**

- (1) Where a person is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order prohibiting him from entering a place specified in the order for a period so specified of not more than two years.
- (2) An order under subsection (1) above is in this Act referred to as an “exclusion order”.
- (3) An exclusion order—
  - (a) may provide for the prohibition to operate only during the periods specified in the order;
  - (b) may specify different places for different periods or days.
- (4) In relation to an offender aged under 16 on conviction, subsection (1) above shall have effect as if the reference to two years were a reference to three months.
- (5) The requirements in an exclusion order shall, as far as practicable, be such as to avoid—
  - (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (6) An exclusion order shall include provision for making a person responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) An exclusion order shall specify the petty sessions area in which the offender resides or will reside.
- (8) A court shall not make an exclusion order unless the court has been notified by the Secretary of State that arrangements for monitoring the offender’s whereabouts are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.
- (9) Before making an exclusion order in respect of an offender who on conviction is under 16, the court shall obtain and consider information about his family circumstances and the likely effect of such an order on those circumstances.
- (10) Before making an exclusion order, the court shall explain to the offender in ordinary language—
  - (a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with section 36B above (electronic monitoring));
  - (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of the requirements of the order; and

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- (c) that the court has power (under Parts III and IV of that Schedule) to review the order on the application of the offender, the responsible officer or any affected person.
- (11) The court by which an exclusion order is made shall—
- (a) give a copy of the order to the offender and the responsible officer; and
  - (b) give to any affected person any information relating to the order which the court considers it appropriate for him to have.
- (12) In this section, “place” includes an area.
- (13) For the purposes of this Act, a person is an affected person in relation to an exclusion order if—
- (a) a requirement under section 36B(1) above is included in the order by virtue of his consent; or
  - (b) a prohibition is included in the order for the purpose (or partly for the purpose) of protecting him from being approached by the offender.
- (14) In this Act, “responsible officer”, in relation to an offender subject to an exclusion order, means the person who is responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates.

#### **40B Breach, revocation and amendment of exclusion orders.**

Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to exclusion orders.

#### **40C Exclusion orders: supplementary.**

- (1) The Secretary of State may make rules for regulating—
- (a) the monitoring of the whereabouts of persons who are subject to exclusion orders; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons who are responsible officers in relation to offenders subject to exclusion orders.
- (2) The Secretary of State may by order direct that section 40A(5) above shall have effect with such additional restrictions as may be specified in the order.”

#### **Commencement Information**

**II** [S. 46](#) in force at 2.9.2004 by [S.I. 2004/2171](#), [art. 2](#)

#### **Marginal Citations**

**M63** [2000 c. 6](#).

#### **47 Drug abstinence orders.**

After section 58 of the <sup>M64</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

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*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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)*

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### “ Drug abstinence orders

#### **58A Drug abstinence orders.**

- (1) Where a person aged 18 or over is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order which requires the offender—
  - (a) to abstain from misusing specified Class A drugs; and
  - (b) to provide, when instructed to do so by the responsible officer, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.
- (2) An order under subsection (1) above is in this Act referred to as a “drug abstinence order”.
- (3) The court shall not make a drug abstinence order in respect of an offender unless—
  - (a) in the opinion of the court, the offender is dependent on, or has a propensity to misuse, specified Class A drugs; and
  - (b) the offence in question is a trigger offence or, in the opinion of the court, the misuse by the offender of any specified Class A drug caused or contributed to the offence in question.
- (4) A drug abstinence order shall provide that, for the period for which the order has effect, the offender shall be under the supervision of a person, being a person of a description specified in an order made by the Secretary of State.
- (5) In this Act, “responsible officer”, in relation to an offender who is subject to a drug abstinence order, means the person who is responsible for his supervision.
- (6) The function of giving instructions for the purposes of subsection (1)(b) above shall be exercised in accordance with guidance given from time to time by the Secretary of State.
- (7) A drug abstinence order shall have effect for a period specified in the order of not less than six months nor more than three years.
- (8) The Secretary of State may make rules for regulating the provision of samples in pursuance of such instructions.
- (9) A court shall not make a drug abstinence order unless the court has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be specified in the order under section 54(1) above (as applied by section 58B(2) below) and the notice has not been withdrawn.

#### **58B Drug abstinence orders: supplementary.**

- (1) Before making a drug abstinence order, the 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;

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- (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of those requirements; and
  - (c) that the order may be reviewed (under Parts III and IV of that Schedule) on the application either of the offender or of the responsible officer.
- (2) Section 54 above (except subsections (2), (3) and (6)) and section 57 above (except subsections (2), (3A) and (4)(b)) shall apply for the purposes of section 58A above and this section as if references to drug treatment and testing orders were references to drug abstinence orders.
- (3) Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to drug abstinence orders.”

#### Commencement Information

- I2** S. 47 wholly in force at 2.7.2001; s. 47 not in force at Royal Assent see s. 80; s. 47 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by S.I. 2001/2232, art. 2(a)

#### Marginal Citations

- M64** 2000 c. 6.

### Miscellaneous

#### 48 Pre-sentence drug testing.

In Chapter I of Part IV of the <sup>M65</sup>Powers of Criminal Courts (Sentencing) Act 2000, after section 36 there is inserted—

##### “36A Pre-sentence drug testing.

- (1) Where a person aged 18 or over is convicted of an offence and the court is considering passing a community sentence, it may make an order under subsection (2) below for the purpose of ascertaining whether the offender has any specified Class A drug in his body.
- (2) The order shall require the offender to provide, in accordance with the order, samples of any description specified in the order.
- (3) If it is proved to the satisfaction of the court that the offender has, without reasonable excuse, failed to comply with the order it may impose on him a fine of an amount not exceeding level 4.

In this subsection, “level 4” means the amount which, in relation to a fine for a summary offence, is level 4 on the standard scale.

- (4) The court shall not make an order under subsection (2) above unless it has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.”

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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

- I3** S. 48 wholly in force at 2.7.2001; s. 48 not in force at Royal Assent see s. 80; s. 48 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by S.I. 2001/2232, art. 2(b)

#### Marginal Citations

- M65** 2000 c. 6.

### 49 Community sentences: drug abstinence requirements.

- (1) In section 42 of the Powers of Criminal Courts (Sentencing) Act 2000 (additional requirements which may be included in community rehabilitation orders), in subsection (2)—

- (a) after “above” there is inserted—

“(a)”,

- (b) at the end there is inserted—

“(b) subject to subsections (2D) and (2F) below, the order shall, if the first set of conditions is satisfied, include a drug abstinence requirement and may include such a requirement if the second set of conditions is satisfied.

- (2A) For the purposes of this Part of this Act, a drug abstinence requirement is a requirement for the offender—

- (a) to abstain from misusing specified Class A drugs; and  
 (b) to provide, when instructed to do so by the responsible officer, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.

- (2B) The first set of conditions is—

- (a) that the offender was aged 18 or over on the date of his conviction for the offence;  
 (b) that, in the opinion of the court, the offender is dependent on or has a propensity to misuse specified Class A drugs; and  
 (c) that the offence is a trigger offence.

- (2C) The second set of conditions is—

- (a) that the offender was aged 18 or over on the date of his conviction for the offence; and  
 (b) that, in the opinion of the court—  
 (i) the offender is dependent on or has a propensity to misuse specified Class A drugs; and  
 (ii) the misuse by the offender of any specified Class A drug caused or contributed to the offence.

- (2D) The order may not include a drug abstinence requirement if—

- (a) the community rehabilitation order includes any requirement in respect of drugs under paragraph 6 of Schedule 2 to this Act; or

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*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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 community sentence includes a drug treatment and testing order or a drug abstinence order.
- (2E) The function of giving instructions for the purposes of subsection (2A)(b) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules for regulating the provision of samples in pursuance of such instructions.
- (2F) The court shall not include a drug abstinence requirement in the order unless the court has been notified by the Secretary of State that arrangements for implementing such requirements are available in the area proposed to be specified under section 41(3) above and the notice has not been withdrawn.”
- (2) In section 47 of that Act (obligations of person subject to community punishment order), after subsection (3) there is inserted—
- “(3A) Subject to subsection (3B) below, the community punishment order shall, if the set of conditions in section 42(2B) above is satisfied, include a drug abstinence requirement and may include such a requirement if the set of conditions in section 42(2C) above is satisfied.
- (3B) The order may not include a drug abstinence requirement if the community sentence includes a drug treatment and testing order or a drug abstinence order.
- (3C) Subsections (2E) and (2F) of section 42 above apply for the purposes of this section as they apply for the purposes of that.”

#### Commencement Information

- I4** S. 49 wholly in force at 2.7.2001; s. 49 not in force at Royal Assent see s. 80; s. 49 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by S.I. 2001/2232, art. 2(c)

## 50 Community sentences: curfew requirements.

In Schedule 2 to the <sup>M66</sup>Powers of Criminal Courts (Sentencing) Act 2000 (additional requirements which may be included in community rehabilitation orders), after paragraph 6 there is inserted—

### Curfew requirements

- “7 (1) Subject to the provisions of this paragraph, a community rehabilitation order may include a requirement that the offender remain, for periods specified in the requirement, at a place so specified.
- (2) A requirement under sub-paragraph (1) above may specify different places or different periods for different days, but shall not specify—
- (a) periods which fall outside the period of six months beginning with the day on which the order is made; or
- (b) periods which amount to less than two hours or more than twelve hours in any one day.

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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) A requirement under sub-paragraph (1) above shall, as far as practicable, be such as to avoid—
- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (4) An order which includes a requirement under sub-paragraph (1) above shall include provision for making a person responsible for monitoring the offender’s whereabouts during the curfew periods specified in the requirement; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (5) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above unless the court has been notified by the Secretary of State that arrangements for monitoring the offender’s whereabouts are available in the area in which the place proposed to be specified in the requirement is situated and the notice has not been withdrawn.
- (6) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above if the community sentence includes a curfew order.
- (7) Before including in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above, the court shall obtain and consider information about the place proposed to be specified in the requirement (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).
- (8) The Secretary of State may make rules for regulating—
- (a) the monitoring of the whereabouts of an offender who is subject to a requirement under sub-paragraph (1) above; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of any person responsible for monitoring the offender’s whereabouts during the curfew periods specified in the requirement.
- (9) The Secretary of State may by order direct that sub-paragraph (3) above shall have effect with such additional restrictions as may be specified in the order.”

#### Commencement Information

**I5** S. 50 wholly in force at 2.7.2001; s. 50 not in force at Royal Assent see s. 80; s. 50 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by S.I. 2001/2232, art. 2(d)

#### Marginal Citations

**M66** 2000 c. 6.

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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)*

PROSPECTIVE

**No**      **Community sentences: exclusion requirements.**  
**commentary**

**item** .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-7fde162bde219b49f55ed9e8803d1d4d51**

**52      Community sentences: electronic monitoring of requirements.**

After section 36A of the <sup>M67</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

**“36B Electronic monitoring of requirements in community orders.**

- (1) Subject to subsections (2) to (4) below, a community order may include requirements for securing the electronic monitoring of the offender’s compliance with any other requirements imposed by the order.
- (2) A court shall not include in a community order a requirement under subsection (1) above unless the court—
  - (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant areas specified in subsections (7) to (10) below; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (3) Where—
  - (a) it is proposed to include in an exclusion order a requirement for securing electronic monitoring in accordance with this section; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
 the requirement shall not be included in the order without that person’s consent.
- (4) Where—
  - (a) it is proposed to include in a community rehabilitation order or a community punishment and rehabilitation order a requirement for securing the electronic monitoring of the offender’s compliance with a requirement such as is mentioned in paragraph 8(1) of Schedule 2 to this Act; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
 the requirement shall not be included in the order without that person’s consent.



*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*

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- (5) An order which includes requirements under subsection (1) above shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (6) The Secretary of State may make rules for regulating—
- (a) the electronic monitoring of compliance with requirements included in a community order; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with requirements included in the order.
- (7) In the case of a curfew order or an exclusion order, the relevant area is the area in which the place proposed to be specified in the order is situated.
- In this subsection, “place”, in relation to an exclusion order, has the same meaning as in section 40A below.
- (8) In the case of a community rehabilitation order or a community punishment and rehabilitation order, the relevant areas are each of the following—
- (a) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 7 of Schedule 2 to this Act, the area mentioned in sub-paragraph (5) of that paragraph;
  - (b) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 8 of that Schedule, the area mentioned in sub-paragraph (5) of that paragraph;
  - (c) where it is proposed to include in the order a requirement for securing compliance with any other requirement, the area proposed to be specified under section 41(3) below.
- (9) In the case of a community punishment order, a drug treatment and testing order, a drug abstinence order, a supervision order or an action plan order, the relevant area is the petty sessions area proposed to be specified in the order.
- (10) In the case of an attendance centre order, the relevant area is the petty sessions area in which the attendance centre proposed to be specified in the order is situated.”

#### Commencement Information

- I6** S. 52 partly in force; s. 52 not in force at Royal Assent see s. 80; s. 52 in force for specified purposes at 20.6.2001 and 2.7.2001 by S.I. 2001/2232, art. 2(e)
- I7** S. 52 in force at 2.9.2004 for specified purposes by S.I. 2004/2171, art. 2

#### Marginal Citations

- M67** 2000 c. 6.

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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)*

PROSPECTIVE

**No** **Breach of community orders: warning and punishment.**  
**commentary**

**item** .....  
**could**  
**be**  
**found**  
**for**  
**this**  
**reference**  
**key-289b70e20d8277a8448f312fb0a7f41053**

**54 Breach of community orders: failure to answer summons.**

After paragraph 3(2) of Schedule 3 to the <sup>M68</sup>Powers of Criminal Courts (Sentencing) Act 2000 (breach, revocation and amendment of certain community orders) there is inserted—

- “(3) Where a summons issued under sub-paragraph (1)(a) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a further summons requiring the offender to appear at the place and time specified in it.
- (4) Where a summons issued under sub-paragraph (1)(a) above or a further summons issued under sub-paragraph (3) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a warrant for the arrest of the offender.”

**Marginal Citations**

**M68** 2000 c. 6.

**55 Regulation of community orders.**

- (1) Regulations made by the Secretary of State may provide for—
- (a) the supervision of persons subject to community rehabilitation orders or community punishment and rehabilitation orders,
  - (b) the arrangements to be made by local probation boards for persons subject to community punishment orders, or community punishment and rehabilitation orders, to perform work and the performance of such work.
- (2) In particular, they may regulate the functions of—
- (a) officers of local probation boards and members of youth offending teams who are responsible for the supervision of offenders subject to community rehabilitation orders, and
  - (b) officers of local probation boards or other persons who are, in relation to persons subject to community punishment orders, responsible officers (within

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the meaning of section 46(13) of the Powers of Criminal Courts (Sentencing) Act 2000).

- (3) Regulations made by virtue of subsection (1)(b) may, in particular, make provision—
- (a) limiting the number of hours of work to be done by a person on any one day,
  - (b) as to the reckoning of hours worked and the keeping of work records, and
  - (c) for the payment of travelling and other expenses in connection with the performance of work.

## CHAPTER II

### MISCELLANEOUS

#### *Young offenders: reprimands and warnings*

#### **56 Reprimands and warnings.**

- (1) In section 65 of the <sup>M69</sup>Crime and Disorder Act 1998 (reprimands and warnings)—
- (a) for subsection (5)(a) there is substituted—
    - “(a) where the offender is under the age of 17, give any reprimand or warning in the presence of an appropriate adult; and”,
  - (b) in subsection (6), after paragraph (a) there is inserted—
    - “(aa) the places where reprimands and warnings may be given”.
- (2) In section 34 of the <sup>M70</sup>Police and Criminal Evidence Act 1984 (limitations on police detention), for subsection (5)(b) there is substituted—
- “(b) that, in respect of any such matter, proceedings may be taken against him or he may be reprimanded or warned under section 65 of the <sup>M71</sup>Crime and Disorder Act 1998”.

#### **Marginal Citations**

**M69** 1998 c. 37.

**M70** 1984 c. 60.

**M71** 1998 c. 37.

#### *Police powers: drugs*

#### **57 Testing persons in police detention.**

- (1) The <sup>M72</sup>Police and Criminal Evidence Act 1984 is amended in accordance with subsections (2) to (4).
- (2) After section 63A there is inserted—

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*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*

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### **“63B Testing for presence of Class A drugs.**

- (1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if the following conditions are met.
- (2) The first condition is—
  - (a) that the person concerned has been charged with a trigger offence; or
  - (b) that the person concerned has been charged with an offence and a police officer of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.
- (3) The second condition is that the person concerned has attained the age of 18.
- (4) The third condition is that a police officer has requested the person concerned to give the sample.
- (5) Before requesting the person concerned to give a sample, an officer must—
  - (a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and
  - (b) in a case within subsection (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.
- (6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument.  
 No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (7) Information obtained from a sample taken under this section may be disclosed—
  - (a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the <sup>M73</sup>Bail Act 1976) to the person concerned;
  - (b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;
  - (c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;
  - (d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.
- (8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.

### **63C Testing for presence of Class A drugs: supplementary.**

- (1) A person guilty of an offence under section 63B above shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 4 on the standard scale, or to both.

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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) A police officer may give an authorisation under section 63B above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (3) If a sample is taken under section 63B above by virtue of an authorisation, the authorisation and the grounds for the suspicion shall be recorded as soon as is practicable after the sample is taken.
- (4) If the sample is taken from a person detained at a police station, the matters required to be recorded by subsection (3) above shall be recorded in his custody record.
- (5) Subsections (11) and (12) of section 62 above apply for the purposes of section 63B above as they do for the purposes of that section; and section 63B above does not prejudice the generality of sections 62 and 63 above.
- (6) In section 63B above—
- “Class A drug” and “misuse” have the same meanings as in the <sup>M74</sup>Misuse of Drugs Act 1971;
- “specified” (in relation to a Class A drug) and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.”
- (3) In section 38 (duties of custody officer after charge)—
- (a) in subsection (1)(a), after sub-paragraph (iii) there is inserted—
- “(iia) in the case of a person who has attained the age of 18, the custody officer has reasonable grounds for believing that the detention of the person is necessary to enable a sample to be taken from him under section 63B below”,
- (b) at the end of subsection (2) there is inserted “ but may not authorise a person to be kept in police detention by virtue of subsection (1)(a)(iia) after the end of the period of six hours beginning when he was charged with the offence ”.
- (4) At the end of section 66 (codes of practice) there is inserted—
- “(2) Codes shall (in particular) include provision in connection with the exercise by police officers of powers under section 63B above.”
- (5) The Secretary of State may by order amend section 63B(2) of that Act so as to extend it to persons who have been arrested for (but not charged with) the offences in question.

#### Commencement Information

- I8** S. 57 partly in force; s. 57 not in force at Royal Assent, see s. 80; s. 57 in force for specified purposes at 20.6.2001, 2.7.2001, 20.5.2002, 2.9.2002 and 1.4.2003 by S.I. 2001/2232, art. 2(f), S.I. 2001/1149, art. 2, S.I. 2002/1862, art. 2 and S.I. 2003/709, art. 2
- I9** S. 57 in force at 1.4.2004 for specified purposes by S.I. 2004/780, art. 2

#### Marginal Citations

- M72** 1984 c. 60.
- M73** 1976 c. 63.
- M74** 1971 c. 38.

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*Status:* Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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)

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## *Bail*

### 58 Right to bail: relevance of drug misuse.

In section 4 of the <sup>M75</sup>Bail Act 1976 (general right to bail), after subsection (8) there is inserted—

“(9) In taking any decisions required by Part I or II of Schedule 1 to this Act, the considerations to which the court is to have regard include, so far as relevant, any misuse of controlled drugs by the defendant (“controlled drugs” and “misuse” having the same meanings as in the <sup>M76</sup>Misuse of Drugs Act 1971).”

#### Commencement Information

**I10** S. 58 wholly in force at 2.7.2001; s. 58 not in force at Royal Assent see s. 80; s. 58 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by S.I. 2001/2232, art. 2(g)

#### Marginal Citations

**M75** 1976 c. 63.

**M76** 1971 c. 38.

## *Detention*

PROSPECTIVE

### 59 Remand centres.

In section 43(1) of the <sup>M77</sup>Prison Act 1952 (places of detention provided by Secretary of State), paragraph (a) (remand centres) is to cease to have effect.

#### Marginal Citations

**M77** 1952 c. 52.

### 60 Life sentences: tariffs.

(1) After section 82 of the <sup>M78</sup>Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

*“ Life sentences*

#### **82A Determination of tariffs.**

- (1) This section applies if a court passes a life sentence in circumstances where—
- (a) the sentence is not fixed by law; or
  - (b) the offender was aged under 18 when he committed the offence.

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- (2) The court shall, unless it makes an order under subsection (4) below, order that the provisions of section 28(5) to (8) of the <sup>M79</sup>Crime (Sentences) Act 1997 (referred to in this section as the “early release provisions”) shall apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence shall be such as the court considers appropriate taking into account—
- (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it;
  - (b) the effect of any direction which it would have given under section 87 below (crediting periods of remand in custody) if it had sentenced him to a term of imprisonment; and
  - (c) the early release provisions as compared with sections 33(2) and 35(1) of the <sup>M80</sup>Criminal Justice Act 1991.
- (4) If the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2) above, the court shall order that, subject to subsection (5) below, the early release provisions shall not apply to the offender.
- (5) If, in a case where an order under subsection (4) above is in force, the offender was aged under 18 when he committed the offence, the Secretary of State shall at the appropriate stage direct that the early release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.
- (6) The appropriate stage, for the purposes of subsection (5) above, is when the Secretary of State has formed the opinion, having regard to any factors determined by him to be relevant for the purpose, that it is appropriate for him to give the direction.
- (7) In this section—
- “court” includes a court-martial;
- “life sentence” has the same meaning as in Chapter II of Part II of the <sup>M81</sup>Crime (Sentences) Act 1997.
- (8) So far as this section relates to sentences passed by a court-martial, section 167(1) below does not apply.”
- (2) In section 90 of the <sup>M82</sup>Powers of Criminal Courts (Sentencing) Act 2000 (offenders who commit murder when under 18: duty to detain at Her Majesty’s pleasure), after “murder” there is inserted “ or any other offence the sentence for which is fixed by law as life imprisonment ”; and, in the sidenote, after “murder” there is inserted “ etc. ”.
- (3) This section has effect in relation to sentences passed after the coming into force of this section.
- (4) In relation to any time before the coming into force of section 87 of the <sup>M83</sup>Powers of Criminal Courts (Sentencing) Act 2000, section 82A of that Act shall have effect as if, in paragraph (b) of subsection (3), for “of any direction which it would have given under section 87 below (crediting periods of remand in custody)” there were

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substituted “ which section 67 of the <sup>M84</sup>Criminal <sup>M85</sup> Justice Act 1967 would have had ”.

#### Extent Information

**E9** S. 60 extends to U.K., see s. 81(1)(2)(b)

#### Marginal Citations

**M78** 2000 c. 6.

**M79** 1997 c. 43.

**M80** 1991 c. 53.

**M81** 1997 c. 43.

**M82** 2000 c. 6.

**M83** 2000 c. 6.

**M84** 2000 c. 6.

**M85** 1967 c. 80.

PROSPECTIVE

#### **61 Abolition of sentences of detention in a young offender institution, custody for life, etc.**

- (1) No court is to pass a sentence of detention in a young offender institution or a sentence of custody for life, and no court is to make a custodial order except in relation to a person who is aged at least 17 but under 18.
- (2) No court is to commit a person to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of persons aged at least 18 but under 21 for default or contempt) or make an order fixing a term of detention under that section.
- (3) A person who—
  - (a) has been sentenced (before the coming into force of this section) to a term of detention in a young offender institution, to custody for life or to a custodial order, and
  - (b) is aged at least 18 but under 21,
 may be detained in a young offender institution, or in a prison, determined by the Secretary of State.
- (4) A person—
  - (a) who has been committed (before the coming into force of this section) to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 or in respect of whom an order fixing a term of detention under that section has been made (before the coming into force of this section), and
  - (b) who is aged under 21,
 may be detained in a young offender institution, or in a prison, determined by the Secretary of State.
- (5) A person who has been sentenced to imprisonment and is aged under 21 may be detained—
  - (a) in a prison, or



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- (b) in a young offender institution in which one or more persons mentioned in subsection (3) or (4) are detained, determined by the Secretary of State.
- (6) A determination of the Secretary of State under this section may be made in respect of an individual or any description of individuals.
- <sup>F24</sup>(7) .....
- (8) In this section—
- “court” includes a court-martial and a Standing Civilian Court,
- “custodial order” means an order under—
- (a) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M86</sup>Army Act 1955,
- (b) section 71AA of, or paragraph 10 of Schedule 5A to, the <sup>M87</sup>Air Force Act 1955,
- (c) section 43AA of, or paragraph 10 of Schedule 4A to, the <sup>M88</sup>Naval Discipline Act 1957.
- (9) On the coming into force of this section—
- (a) paragraph (b) of the definition of “qualifying sentence” in section 30(1), and
- (b) paragraph (b) of the definition of “relevant sentence” in section 69(7), are omitted.

#### Extent Information

**E10** S. 61 extends to U.K., see s. 81(1)(2)(c)

#### Textual Amendments

**F24** S. 61(7) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

#### Marginal Citations

**M86** 1955 c. 18.

**M87** 1955 c. 19.

**M88** 1957 c. 53.

### *Release of prisoners on licence etc.*

## **62 Release on licence etc: conditions as to monitoring.**

- (1) This section applies where a sentence of imprisonment has been imposed on a person and, by virtue of any enactment—
- (a) the Secretary of State is required to, or may, release the person from prison, and
- (b) the release is required to be, or may be, subject to conditions (whether conditions of a licence or any other conditions, however expressed).
- (2) The conditions may include—

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- (a) conditions for securing the electronic monitoring of his compliance with any other conditions of his release,
  - (b) conditions for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with other conditions of his release).
- (3) In relation to a prisoner released under section 34A(3) of the <sup>M89</sup>Criminal Justice Act 1991 (power to release short-term prisoners on licence) the monitoring referred to in subsection (2)(a) does not include the monitoring of his compliance with conditions imposed under section 37A of that Act (curfew conditions).
- (4) The Secretary of State may make rules about the conditions that may be imposed by virtue of this section.
- (5) In this section, “sentence of imprisonment” includes—
- (a) a detention and training order,
  - (b) a sentence of detention in a young offender institution,
  - (c) a sentence of detention under section 90 of the <sup>M90</sup>Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
  - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
  - (e) a sentence of custody for life under section 93 or 94 of that Act,
- and “prison” shall be construed accordingly.

#### Marginal Citations

**M89** 1991 c. 53.

**M90** 2000 c. 6.

### 63 Supervision of young offenders after release.

- (1) Section 65 of the <sup>M91</sup>Criminal Justice Act 1991 is amended as follows.
- (2) After subsection (5) there is inserted—
- “(5A) The requirements that may be specified in a notice under subsection (5) above include—
- (a) requirements for securing the electronic monitoring of the person’s compliance with any other requirements specified in the notice;
  - (b) requirements for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with requirements specified in the notice);
  - (c) in the circumstances mentioned in subsection (5B) below, requirements to provide, when instructed to do so by an officer of a local probation board or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the person has any specified Class A drug in his body.
- (5B) The circumstances referred to in subsection (5A)(c) above are that—
- (a) the person has attained the age of 18 years;
  - (b) his term of detention was imposed for a trigger offence; and

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- (c) the requirements to provide samples are being imposed for the purpose of determining whether he is complying with any other requirements specified in the notice.
- (5C) Requirements imposed by virtue of subsection (5A) above shall not have effect on or after the day on which the person would (but for his release) have served his term in full.
- (5D) The function of giving such an instruction as is mentioned in subsection (5A) (c) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (5A) above and the provision of samples in pursuance of such an instruction.”
- (3) After subsection (8) there is inserted—
- “(9) The power to make rules under this section—
- (a) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
- (b) shall include power to make different provision for different cases or classes of case.
- (10) In this section, “specified Class A drug” and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.”

#### Commencement Information

- III** S. 63 partly in force: S. 63 not in force at Royal Assent see s. 80(1); s. 63(2) in force for certain purposes at 1.2.2001 by S.I. 2000/3302, art. 3; s. 63 in force for specified purposes at 20.6.2001 and 2.7.2001 by S.I. 2001/2232, art. 2(h)

#### Marginal Citations

- M91** 1991 c. 53.

## 64 Release on licence etc: drug testing requirements.

- (1) This section applies where—
- (a) the Secretary of State releases from prison a person aged 18 or over on whom a sentence of imprisonment has been imposed for a trigger offence, and
- (b) the release is subject to conditions (whether conditions of a licence or any other conditions, however expressed).
- (2) For the purpose of determining whether the person is complying with any of the conditions, they may include the following requirement.
- (3) The requirement is that the person must provide, when instructed to do so by an officer of a local probation board or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.
- (4) The function of giving such an instruction is to be exercised in accordance with guidance given from time to time by the Secretary of State; and regulations made by the Secretary of State may regulate the provision of samples in pursuance of such an instruction.

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- (5) In this section, “sentence of imprisonment” includes—
- (a) a detention and training order,
  - (b) a sentence of detention in a young offender institution,
  - (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
  - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
  - (e) a sentence of custody for life under section 93 or 94 of that Act,
- and “prison” shall be construed accordingly.

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**Commencement Information**

**I12** S. 64 wholly in force at 2.7.2001; s. 64 not in force at Royal Assent see s. 80; s. 64 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(i\)](#)

**65 Short-term prisoners: release subject to curfew conditions.**

In section 34A of the <sup>M92</sup>Criminal Justice Act 1991 (power to release short-term prisoners on licence), after subsection (2)(d) there is inserted—

“(da) the prisoner is subject to the notification requirements of Part I of the <sup>M93</sup>Sex Offenders Act 1997;”.

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**Marginal Citations**

**M92** 1991 c. 53.  
**M93** 1997 c. 51.

*Sexual or violent offenders*

<sup>F25</sup>**66 Amendments of the Sex Offenders Act 1997.**

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**Textual Amendments**

**F25** S. 66 repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 44\(2\)](#), [Sch. 7](#); [S.I. 2004/874](#), [art. 2](#)

<sup>F26</sup>**67 Arrangements for assessing etc. risks posed by certain offenders.**

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**Textual Amendments**

**F26** S. 67 repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 12](#); S.I. 2004/829, art. 2(1)(2)(1)(v) (with art. 2(5))

<sup>F27</sup> **68 Section 67: interpretation.**

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**Textual Amendments**

**F27** S. 68 repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 12](#); S.I. 2004/829, art. 2(1)(2)(1)(v)

**69 Duties of local probation boards in connection with victims of certain offences.**

- (1) This section applies in a case where a court—
  - (a) convicts an offender of a sexual or violent offence, and
  - (b) imposes a relevant sentence on him in respect of that conviction.
- (2) In cases where this section applies, the local probation board for the area in which the offender is sentenced must take all reasonable steps to ascertain whether any appropriate person wishes to—
  - (a) make representations about whether the offender should be subject to any conditions or requirements on his release and, if so, what conditions or requirements, or
  - (b) receive information about any conditions or requirements to which the offender is to be subject on his release.
- (3) In this section, “appropriate person”, in relation to an offence, means any person who appears to the local probation board in question to be, or to act for, the victim of the offence (“the victim”).
- (4) Where it is ascertained that an appropriate person wishes to make representations in accordance with paragraph (a) of subsection (2), the relevant local probation board must forward those representations to the person responsible for determining the matters mentioned in that paragraph.
- (5) Where it is ascertained that an appropriate person wishes to receive information in accordance with subsection (2)(b), the relevant local probation board must take all reasonable steps—
  - (a) to inform that person whether or not the offender is to be subject to any conditions or requirements on his release,
  - (b) if the offender is to be subject to any such conditions or requirements, to provide that person with details of any conditions or requirements which relate to contact with the victim or his family, and
  - (c) to provide that person with such other information as is considered by that local probation board to be appropriate in all the circumstances of the case.
- (6) For the purposes of subsections (4) and (5), “relevant local probation board” means—

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- (a) where the offender is to be supervised on release by an officer of a local probation board, that local probation board,
  - (b) in any other case, the local probation board for the area in which the prison or other place of detention from which the offender is to be released is situated.
- (7) In this section—
- “conditions” means conditions in a licence,
  - “court” does not include a court-martial or the Courts-Martial Appeal Court,
  - “relevant sentence” means—
    - (a) a sentence of imprisonment for a term of 12 months or more,
    - (b) a sentence of detention in a young offender institution for a term of 12 months or more,
    - (c) a sentence of detention during Her Majesty’s pleasure,
    - (d) a sentence of detention for a period of 12 months or more under section 91 of the <sup>M94</sup>Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences), or
    - (e) a detention and training order for a term of 12 months or more,
  - “requirements” means requirements specified in a notice under section 65(5) of the <sup>M95</sup>Criminal Justice Act 1991 (requirements imposed in connection with supervision of young offenders after release).
- (8) An offence is a sexual or violent offence for the purposes of this section if it is—
- (a) a sexual or violent offence within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000,
  - (b) an offence in respect of which the offender is subject to the notification requirements of [<sup>F28</sup>Part 2 of the Sexual Offences Act 2003] , or
  - (c) an offence against a child within the meaning of Part II of this Act.
- (9) This section has effect in relation to cases where the relevant sentence is imposed after the section comes into force.

#### Textual Amendments

**F28** Words in s. 69(8)(b) substituted (1.5.2004) by *Sexual Offences Act 2003 (c. 42)*, s. 141, **Sch. 6 para. 44(4)**; S.I. 2004/874, art. 2

#### Marginal Citations

**M94** 2000 c. 6.

**M95** 1991 c. 53.

## CHAPTER III

### SUPPLEMENTARY

#### 70 Interpretation, etc.

- (1) In this Part—

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“Class A drug” has the same meaning as in the <sup>M96</sup>Misuse of Drugs Act 1971,

“specified”, in relation to a Class A drug, means specified by an order made by the Secretary of State,

“trigger offence” has the meaning given by Schedule 6.

(2) The Secretary of State may by order amend Schedule 6 so as to add, modify or omit any description of offence.

(3) In this Part (except in section 69), references to release include temporary release.

(4) In section 163 of the <sup>M97</sup>Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate places there are inserted—

““specified Class A drug” has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000”,

““trigger offence” has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000”.

(5) Section 53 does not apply in relation to any community order made before that section comes into force.

#### Commencement Information

**I13** S. 70 wholly in force at 2.7.2001; s. 70 not in force at Royal Assent see s. 80; s. 70 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(j\)](#)

#### Marginal Citations

**M96** 1971 c. 38.

**M97** 2000 c. 6.

## PART IV

### GENERAL AND SUPPLEMENTARY

#### CHAPTER I

##### GENERAL

#### 71 Access to driver licensing records.

(1) The Secretary of State may make any information held by him for the purposes of Part III of the <sup>M98</sup>Road Traffic Act 1988 available to the Police Information Technology Organisation for use by constables.

(2) In respect of any information made available to the Organisation under subsection (1), the Secretary of State may by regulations—

(a) determine the purposes for which constables may be given access to the information,

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- (b) determine the circumstances in which any of the information to which they have been given access may be further disclosed by them.
- (3) Before making any regulations applying in respect of constables in police forces in Scotland, the Secretary of State must, to the extent to which the regulations will so apply, consult the Scottish Ministers.
- (4) In this section, “information” means information held in any form.
- (5) Section 105(2)(b) of that Act (power by regulations to make particulars with respect to persons who are disqualified etc. available for use by the police) is to cease to have effect.

#### Commencement Information

**I14** S. 71 partly in force; s. 71 not in force at Royal Assent see s. 80; s. 71(1)-(4) in force at 29.10.2001 by [S.I. 2001/3385, art. 2](#)

#### Marginal Citations

**M98** 1988 c. 52.

## 72 Failure to secure regular attendance at school.

- (1) In section 444 of the <sup>M99</sup>Education Act 1996 (failure to secure regular attendance at school)—
  - (a) after subsection (1) there is inserted—
    - “(1A) If in the circumstances mentioned in subsection (1) the parent knows that his child is failing to attend regularly at the school and fails without reasonable justification to cause him to do so, he is guilty of an offence.”,
  - (b) in subsection (8), for “this section” there is substituted “ subsection (1) ”,
  - (c) after that subsection there is inserted—
    - “(8A) A person guilty of an offence under subsection (1A) is liable on summary conviction—
      - (a) to a fine not exceeding level 4 on the standard scale, or
      - (b) to imprisonment for a term not exceeding three months, or both.
    - (8B) If, on the trial of an offence under subsection (1A), the court finds the defendant not guilty of that offence but is satisfied that he is guilty of an offence under subsection (1), the court may find him guilty of that offence.”
- (2) This section does not apply to an offence committed before the section comes into force.

#### Marginal Citations

**M99** 1996 c. 56.



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### 73 Parenting orders: responsible officer.

In section 8(8) of the <sup>M100</sup>Crime and Disorder Act 1998 (parenting orders: persons who may be specified as the responsible officer), after paragraph (b) there is inserted—

“(bb) a person nominated by a person appointed as chief education officer under section 532 of the <sup>M101</sup>Education Act 1996”.

#### Marginal Citations

M100 1998 c. 37.

M101 1996 c. 56.

### 74 Amendments.

Schedule 7 (which makes minor and consequential amendments) is to have effect.

#### Commencement Information

**I15** S. 74 partly in force; s. 74 not in force at Royal Assent see s. 80; s. 74 in force for specified purposes at 20.6.2001 and 2.7.2001 by S.I. 2001/2232, art. 2(k)

**I16** S. 74 in force at 2.9.2004 for specified purposes by S.I. 2004/2171, art. 2

PROSPECTIVE

### 75 Repeals.

The enactments specified in Schedule 8 are repealed to the extent specified.

## CHAPTER II

### SUPPLEMENTARY

### 76 Subordinate legislation.

- (1) This section applies to any power conferred by this Act on the Lord Chancellor or the Secretary of State to make regulations, rules or an order.
- (2) The power, unless it is a power to make an order under section 19, 20 or 23, shall be exercisable by statutory instrument.
- (3) The power may be exercised so as to make different provision for different purposes or different areas.
- (4) The power includes power to make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,
 which the Minister exercising the power considers necessary or expedient.
- (5) An order—

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- (a) making any provision by virtue of section 10, 26(2), 36(15), 57(5) or 70(2), or
- (b) making any provision by virtue of section 77(2) which adds to, replaces or omits any part of the text of an Act,

may only be made if a draft of the statutory instrument containing the order has been laid before and approved by resolution of each House of Parliament.

- (6) Any other statutory instrument made in exercise of a power to which this section applies shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subsection (6) does not apply to a statutory instrument containing an order—
  - (a) revoking an order made by virtue of section 10, or
  - (b) made by virtue only of section 80.

## 77 Supplementary and consequential provision, etc.

- (1) The Lord Chancellor or the Secretary of State may by order make—
  - (a) any supplementary, incidental or consequential provision,
  - (b) any transitory, transitional or saving provision,
 which he considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.
- (2) The provision which may be made under subsection (1) includes provision amending or repealing any enactment, instrument or document.

## 78 General interpretation.

- (1) In this Act—
  - “community order” has the meaning given by section 33 of the <sup>M102</sup>Powers of Criminal Courts (Sentencing) Act 2000,
  - “enactment” includes an enactment contained in subordinate legislation,
  - “functions” includes powers and duties,
  - “local probation board” has the meaning given by section 4,
  - “subordinate legislation” has the same meaning as in the <sup>M103</sup>Interpretation Act 1978.
- (2) In this Act, “enactment” means an enactment whenever passed or made; but in this Part it means—
  - (a) an Act passed before, or in the same Session as, this Act, and
  - (b) subordinate legislation made before the passing of this Act.

### Marginal Citations

M102 2000 c. 6.

M103 1978 c. 30.

## 79 Expenses.

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act,

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- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

## 80 Commencement.

- (1) This Act shall come into force on such day as the Lord Chancellor or the Secretary of State may by order appoint.
- (2) Different days may be appointed under this section for different purposes and different areas.
- (3) Subsection (1) does not apply to—
- (a) sections 19 to 22,
  - (b) section 60,
  - (c) this Chapter,
  - (d) in Schedule 7, paragraphs 15(1)(e) and (2), 18(3)(c)(i) and (4), 22(1)(e) and (2), 25(3)(c)(i) and (4), 29(1)(e) and (2), 32(3)(c)(i) and (4), 135 to 138, 142, 144 to 148 and 203(3) and (4),
  - (e) the repeals mentioned in the note to Schedule 8.

### Subordinate Legislation Made

- P1** S. 80 power partly exercised: 1.3.2001 appointed for specified provision by S.I. 2001/340, **art. 2**
- S. 80 power partly exercised: 1.3.2001 appointed for specified provision by S.I. 2001/562, **art. 2**
- S. 80 power partly exercised: 1.4.2001 appointed for specified provisions by S.I. 2001/919, **art. 2**
- S. 80 partly exercised: 2.9.2002 appointed for specified provisions by S.I. 2002/1862, **art. 2**
- S. 80 power partly exercised: different dates appointed for specified provisions by S.I. 2001/1651, **art. 2**
- S. 80 power partly exercised: 31.5.2001 appointed for specified provisions by S.S.I. 2001/166, **art. 3**
- S. 80 power partly exercised: different dates appointed for specified provisions by S.I. 2001/2232, **art. 2**
- S. 80 power partly exercised: 29.10.2001 appointed for specified provisions by S.I. 2001/3385, **art. 2**
- S. 80 power partly exercised: 20.5.2002 appointed for specified provisions by S.I.2002/1149, **art. 2**

## 81 Extent.

- (1) Subject to the following provisions, this Act extends to England and Wales only.
- (2) Subsection (1) does not apply to—
- (a) sections 26 to 33, so far as they relate to the making of orders by, or orders made by, courts-martial or the Courts-Martial Appeal Court,
  - (b) section 60, and paragraphs 135 to 138, 142 and 144 to 148 of Schedule 7, so far as they relate to sentences passed by a court-martial,
  - (c) section 61 so far as it relates to sentences passed by a court-martial or a Standing Civilian Court,
  - (d) section 66 and Schedule 5,
  - (e) section 71,
  - (f) this Chapter,
  - (g) paragraphs 17 and 19 of Schedule 2,

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- (h) any amendment by Schedule 7 of the <sup>M104</sup>Army Act 1955, the <sup>M105</sup>Air Force Act 1955 or the <sup>M106</sup>Naval Discipline Act 1957,
  - (i) paragraph 159 of Schedule 7.
- (3) Sections 35, 36 and 41 extend to England and Wales and Northern Ireland.
- (4) Section 40 extends to Northern Ireland only.
- (5) The amendment or repeal by Schedule 7 or 8 of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.
- (6) For the purposes of the <sup>M107</sup>Scotland Act 1998, any provision of section 66 and Schedule 5 and, so far as relating to those provisions and extending to Scotland, any provision of this Chapter is to be taken to be a pre-commencement enactment within the meaning of that Act.

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**Marginal Citations**

**M104** 1955 c. 18.

**M105** 1955 c. 19.

**M106** 1957 c. 53.

**M107** 1998 c. 46.

**82 Short title.**

This Act may be cited as the Criminal Justice and Court Services Act 2000.

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## SCHEDULES

### SCHEDULE 1

Section 4.

#### LOCAL PROBATION BOARDS

##### *Constitution*

- 1 A local probation board shall be a body corporate.
- 2 (1) A local probation board is to consist of a chairman, a chief officer and not less than five other members.
  - (2) One of the other members is to be appointed by the Lord Chancellor from among the judges of the Crown Court (being a judge of the High Court, a Circuit judge or a Recorder).
  - (3) The chairman, the chief officer and the other members are to be appointed by the Secretary of State.
  - (4) Regulations may make provision as to their appointment (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment as a member).
  - (5) Regulations made by virtue of sub-paragraph (4) and coming into force on or after the coming into force of section 4 must make provision—
    - (a) for the selection procedure for the chairman, the chief officer and the other members of the board who are to be appointed by the Secretary of State to include selection panels,
    - (b) in the case of the chief officer, for the board to be represented on any selection panel making a final recommendation to the Secretary of State.
  - (6) Regulations must provide, so far as it is practicable to do so, for the persons appointed to be representative of the local community in the board's area and to live or work (or to have lived or worked) in that area.
  - (7) Below in this Schedule, "member" includes the chairman and chief officer (where the context allows).

##### *Tenure of members*

- 3 (1) A person is to hold and vacate office as a member in accordance with the terms of the instrument appointing him.
  - (2) A person may at any time resign office as a member by giving written notice to the Secretary of State or, as the case may be, the Lord Chancellor.
  - (3) The Secretary of State or, as the case may be, the Lord Chancellor may remove a member from office by giving written notice to him.

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- (4) Regulations may make provision as to the tenure of office of the members (including the circumstances in which they cease to hold office or may be removed or suspended from office).
- (5) The chief officer is to be treated for the purposes of the <sup>M108</sup>Employment Rights Act 1996 as if he were in Crown employment (within the meaning of that Act).
- (6) Sub-paragraphs (1) to (3) have effect subject to sub-paragraph (5) and any regulations made by virtue of sub-paragraph (4).

#### Marginal Citations

M108 1996 c. 18.

#### *Chairman's report*

- 4 Regulations may require the chairman to make a report to the Secretary of State about the performance of the other members, or any of them, and may confer other functions on the chairman.

#### *Remuneration etc.*

- 5 (1) It is for the Secretary of State to pay, or make provision for paying, to or in respect of any person who is or has been a member—
  - (a) any remuneration, fees or expenses,
  - (b) any pension, allowance or gratuity,
 determined by him.
- (2) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as a member otherwise than on the expiration of his term of office to receive compensation, the Secretary of State may pay an amount of compensation determined by him to that person.

#### *Procedure*

- 6 Regulations may provide for—
  - (a) the establishment and functions of committees and sub-committees (including committees and sub-committees which consist of or include persons who are not members),
  - (b) the procedure of the boards and of any committees or sub-committees of the boards (including quorum and the validation of proceedings in the event of vacancies or defects in appointment).

#### *Secretary and Treasurer*

- 7 Regulations shall provide—
  - (a) for each local probation board to appoint a secretary or treasurer (including the conditions to be fulfilled for appointment),
  - (b) for the tenure of office of a secretary or treasurer so appointed (including the circumstances in which he ceases to hold office or may be removed or suspended from office).

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### *Staff*

- 8 (1) A local probation board may appoint staff on terms and conditions determined by the local probation board as to—
- (a) any remuneration, fees or expenses,
  - (b) any pension, allowance or gratuity.
- (2) But—
- (a) a determination under this paragraph requires the approval of the Secretary of State,
  - (b) the Secretary of State may give directions as to the appointment of staff of a description specified in the directions,
  - (c) the Secretary of State may give directions as to the qualifications, experience or training of staff.

### *Delegation of functions*

- 9 A local probation board may arrange for a committee, sub-committee or member to discharge functions of the board.
- 10 Regulations may provide for prescribed functions or other powers of a local probation board to be exercised by the chief officer on behalf of the board.

### *Payments to boards*

- 11 (1) The Secretary of State may pay to a local probation board any amount he considers appropriate.
- (2) If he considers it appropriate, he may make any payment on conditions.
- (3) The conditions may (among other things)—
- (a) regulate the purposes for which the payment or any part of it may be used,
  - (b) require repayment to the Secretary of State in specified circumstances.

### *Supervision*

- 12 (1) Functions and other powers of local probation boards must be performed in accordance with any directions given to them by the Secretary of State.
- (2) A local probation board must provide the Secretary of State with any information relating to the performance of its functions or other powers which he may from time to time require.

### *Ancillary powers*

- 13 (1) Subject to any directions given by the Secretary of State, a local probation board may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.
- (2) That includes, in particular—
- (a) holding property,
  - (b) entering into contracts,
  - (c) investing sums not immediately required for the purpose of performing its functions,

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- (d) accepting gifts.
- (3) But a local probation board—
  - (a) may not hold land (though it may manage it),
  - (b) may not borrow money, whether by way of overdraft or otherwise, without the approval of the Secretary of State.
- (4) Approval under this paragraph may be either general or special.

#### *Directions*

- 14 (1) Different directions may be given under this Chapter for different purposes.
- (2) Directions under this Chapter may be either general or special.
- (3) Directions under this Chapter may apply in relation to local probation boards generally or in relation to one or more local probation boards identified in the directions.

#### *Annual plan*

- 15 (1) A local probation board must, before the beginning of each financial year—
  - (a) prepare a plan setting out how it intends to exercise its functions in that year, having regard to the circumstances prevailing in its area, and dealing with any other matter which the Secretary of State by directions requires it to deal with in respect of that year,
  - (b) send a copy of the plan to the Secretary of State.
- (2) If the plan does not appear to the Secretary of State to be satisfactory, he may direct the local probation board to modify it.

#### *Reports*

- 16 (1) A local probation board must—
  - (a) make a report to the Secretary of State on the performance of its functions during each financial year, and
  - (b) arrange for the report to be published.
- (2) The Secretary of State may give directions as to—
  - (a) the information to be given in the report and the form in which it is to be given,
  - (b) the time by which the report is to be made,
  - (c) the form and manner in which the report is to be published.

#### *Accounts*

- 17 (1) A local probation board must—
  - (a) keep proper accounts and proper records in relation to the accounts,
  - (b) prepare in respect of each financial year of the board a statement of accounts.
- (2) The Comptroller and Auditor General may examine any accounts of a local probation board, any records relating to the accounts and any auditor's report on them.



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- (3) In the <sup>M109</sup>Audit Commission Act 1998—
- (a) in section 11(2) (consideration of reports and recommendations), for paragraph (f) there is substituted—
- “(f) local probation boards established under section 4 of the Criminal Justice and Court Services Act 2000”,
- (b) in Schedule 2 (accounts subject to audit), for paragraph 1(p) there is substituted—
- “(p) a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000”.
- (4) The Secretary of State must prepare in respect of each financial year consolidated accounts of the local probation boards and send them, not later than the time specified in directions given by the Treasury, to the Comptroller and Auditor General.
- (5) The Comptroller and Auditor General must examine and certify the consolidated accounts and lay copies of them, together with his report on them, before the House of Commons.

**Marginal Citations**

**M109** 1998 c. 18.

*Complaints*

- 18 Regulations may require each local probation board to make and publicise arrangements for dealing with complaints made by or on behalf of prescribed persons in relation to things done under the arrangements made by the board under section 5.

*Status*

- 19 A local probation board is not to be regarded as the servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown; and its property is not to be regarded as property of, or property held on behalf of, the Crown.

*Interpretation*

- 20 “Financial year”, in this Schedule, means—
- (a) the period beginning with the date on which the local probation board is established and ending with the next following 31st March, and
- (b) each successive period of twelve months.

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## SCHEDULE 2

Section 11.

### CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE

#### Modifications etc. (not altering text)

- C8** Sch. 2: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

#### *Constitution*

- 1 The Service is to consist of a chairman, and not less than ten other members, appointed by the [<sup>F29</sup>Secretary of State].

#### Textual Amendments

- F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

- 2 (1) Regulations may provide—
- (a) for the appointment of the chairman and other members and for the co-option by the Service for particular purposes of additional members (including the number, or limits on the number, of persons who may be appointed or co-opted and any conditions to be fulfilled for appointment or co-option),
  - (b) for the tenure of office of the chairman and other members and any co-opted members (including the circumstances in which they cease to hold office or may be removed or suspended from office).
- (2) References below in this Schedule to members of the Service do not include co-opted members.

#### *Remuneration etc. of members*

- 3 (1) The Service may pay, or make provision for paying, to or in respect of any person who is or has been the chairman or another member—
- (a) any remuneration, fees or expenses,
  - (b) any pension, allowance or gratuity,
- determined by the [<sup>F29</sup>Secretary of State].
- (2) The Service may, to any extent determined by the [<sup>F29</sup>Secretary of State], reimburse any co-opted members for any expenses or loss of earnings.
- (3) Where a person ceases to be chairman or another member of the Service otherwise than on the expiry of his term of office and it appears to the [<sup>F29</sup>Secretary of State] that there are circumstances which make it right for that person to receive compensation, the Service may pay that person an amount determined by the [<sup>F29</sup>Secretary of State].

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### Textual Amendments

**F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

### *Procedure*

- 4 Regulations may provide for—
- (a) the establishment and functions of committees (including committees which include persons who are not the chairman or another member of the Service),
  - (b) the procedure of the Service and of any of its committees (including quorum and the validation of proceedings in the event of vacancies or defects in appointment).

### *Staff and other officers*

- 5 (1) The Service may appoint—
- (a) staff to perform the functions of officers of the Service, and
  - (b) other staff.
- (2) Regulations may make provision as to the qualifications, experience or training to be required of officers of the Service (whether or not appointed under sub-paragraph (1)(a)).
- (3) One of the staff appointed under sub-paragraph (1)(b) is to be the chief executive.
- (4) The Service must not appoint a person—
- (a) as chief executive, or
  - (b) as a member of the staff of a description specified in a direction given by the [<sup>F29</sup>Secretary of State],
- without the approval of the [<sup>F29</sup>Secretary of State].

### Textual Amendments

**F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

- 6 (1) Staff of the Service are to be appointed on terms and conditions determined by the Service as to—
- (a) any remuneration, fees or expenses,
  - (b) any pension, allowance or gratuity.
- (2) It is for the Service to determine the terms and conditions of any arrangements under section 13(4) under which individuals perform the functions of officers of the Service.
- (3) But a determination under this paragraph requires the approval of the [<sup>F29</sup>Secretary of State].

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**Textual Amendments**

**F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

*Delegation*

- 7 The Service may arrange for the chairman or any other member to discharge functions of the Service on its behalf.

*Payments to the Service*

- 8 (1) The [<sup>F29</sup>Secretary of State] may, at any time, pay to the Service any amount he considers appropriate.
- (2) If he considers it appropriate, he may make any payment on conditions.

**Textual Amendments**

**F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

*Supervision*

- 9 (1) Functions and other powers of the Service, and functions of any officer of the Service, must be performed in accordance with any directions given by the [<sup>F29</sup>Secretary of State].
- (2) In particular, the directions may make provision for the purpose of ensuring that the services provided are of appropriate quality and meet appropriate standards.
- (3) The Service must provide the [<sup>F29</sup>Secretary of State] with any information relating to the performance of its functions which he may from time to time require.

**Textual Amendments**

**F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

*Ancillary powers*

- 10 (1) Subject to any directions given by the [<sup>F29</sup>Secretary of State], the Service may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.
- (2) That includes, in particular—
- (a) holding land and other property,
  - (b) entering into contracts,
  - (c) investing sums not immediately required for the purpose of performing its functions,

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(d) accepting gifts.

(3) But the Service may not borrow money, whether by way of overdraft or otherwise, without the approval of the [F29Secretary of State].

#### Textual Amendments

**F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

#### Directions

11 (1) Different directions may be given under this Schedule for different purposes.

(2) Directions under this Schedule may be either general or special.

#### Reports and accounts

12 (1) The Service must make a report to the [F29Secretary of State] in respect of each financial year on the performance of its functions.

(2) The [F29Secretary of State] may give directions as to—

- (a) the information to be given in the report and the form in which it is to be given, and
- (b) the time by which the report is to be given.

(3) The [F29Secretary of State] must—

- (a) lay a copy of the report before each House of Parliament,
- (b) arrange for the report to be published in a manner he considers appropriate.

#### Textual Amendments

**F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

13 (1) The Service must—

- (a) keep proper accounts and proper records in relation to the accounts,
- (b) prepare in respect of each financial year of the Service a statement of accounts, and
- (c) send copies of the statement to the [F29Secretary of State] and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.

(2) The statement of accounts must comply with any directions given by the [F29Secretary of State] as to—

- (a) the information to be contained in it,
- (b) the manner in which the information contained in it is to be presented,
- (c) the methods and principles according to which the statement is to be prepared,

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and must contain any additional information the [F29Secretary of State] may require to be provided for the information of Parliament.

- (3) The Service must, in accordance with directions given by the [F29Secretary of State]—
- (a) appoint an auditor who is not a member of the Service’s staff, and
  - (b) ensure that the auditor makes a report to the [F29Secretary of State] about the preparation of the accounts and about the statement of accounts.
- (4) The Comptroller and Auditor General must examine, certify and report on the statement of accounts and must lay copies of the statement and of his report before each House of Parliament.

#### Textual Amendments

**F29** Words in Sch. 2 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), **Sch. para. 4(4)**

- 14 “Financial year”, in this Schedule, means—
- (a) the period beginning with the date on which the Service is established and ending with the next following 31st March, and
  - (b) each successive period of twelve months.

#### *Complaints*

- 15 The Service must make and publicise a scheme for dealing with complaints made by or on behalf of prescribed persons in relation to the performance by the Service and its officers of their functions.

#### *Status*

- 16 The Service is not to be regarded as the servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown; and its property is not to be regarded as property of, or property held on behalf of, the Crown.

#### *General*

- 17 In Schedule 2 to the <sup>M110</sup>Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), at the appropriate place there is inserted—
- “Children and Family Court Advisory and Support Service.”

#### Marginal Citations

**M110** 1967 c. 13.

- 18 (1) Employment with the Service shall be included in the kinds of employment to which a scheme under section 1 of the <sup>M111</sup>Superannuation Act 1972 can apply.
- (2) The Service must 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 sub-

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paragraph (1) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

**Marginal Citations**

M111 1972 c. 11.

- 19 In Part II of Schedule 1 to the <sup>M112</sup>House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place there is inserted—

“The Children and Family Court Advisory and Support Service”

**Marginal Citations**

M112 1975 c. 24.

SCHEDULE 3

Section 19.

TRANSFER OF PROPERTY

**Modifications etc. (not altering text)**

- C9 Sch. 3: transfer of functions (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), arts. 1(2), 3, 4

**Commencement Information**

- I17 Sch. 3: s. 19 (which induces Sch. 3) wholly in force at Royal Assent; Sch. 3 expressed to be brought into force at 1.4.2001 by [S.I. 2001/919](#), art. 2(e)

- 1 A scheme may, in particular—
- (a) provide for the creation of rights or interests, or the imposition of liabilities or conditions, in relation to property transferred, or rights or interests acquired, by virtue of the scheme,
  - (b) provide for any property, liabilities or conditions to be determined under the scheme.
- 2 (1) A scheme is to have effect in relation to any property or liabilities to which it applies despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property or liabilities.
- (2) A right of pre-emption, right of reverter or other similar right is not to operate or become exercisable as a result of any transfer of property by virtue of the scheme.
- (3) In the case of such a transfer, any such right is to have effect as if the transferee were the same person in law as the transferor and as if no transfer of the property had taken place.
- 3 (1) Such compensation as is just is to be paid to any person in respect of any right which would, apart from paragraph 2, have operated in favour of, or become exercisable by, that person but which, in consequence of the operation of that paragraph, cannot

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subsequently operate in his favour or (as the case may be) become exercisable by him.

- (2) Any compensation payable by virtue of sub-paragraph (1) is to be paid by the transferor or by the transferee or by both.
- (3) A scheme may provide for the determination of any disputes as to whether and, if so, how much, compensation is payable by virtue of sub-paragraph (1) and as to the person to whom or by whom it is to be paid.
- 4 Paragraphs 2 and 3 apply in relation to the creation of rights or interests, or the doing of anything else, in relation to property as they apply in relation to a transfer of property; and references to the transferor and transferee are to be read accordingly.
- 5 A certificate issued by the [<sup>F30</sup>Secretary of State] that any property or liability has, or has not, been transferred by virtue of a scheme is conclusive evidence of the transfer or (as the case may be) the fact that there has not been a transfer.

#### Textual Amendments

**F30** Words in Sch. 3 para. 5 substituted (12.1.2004) by [The Transfer of Functions \(Children, Young People and Families\) Order 2003 \(S.I. 2003/3191\)](#), art. 1(2), [Sch. para. 4\(2\)](#)

## SCHEDULE 4

Section 26.

### MEANING OF “OFFENCE AGAINST A CHILD”

- 1 The offences mentioned in paragraph (a) of subsection (1) of section 26 are—
- (a) an offence under section 1 of the <sup>M113</sup>Children and Young Persons Act 1933 (cruelty to children),
- (b) an offence under section 1 of the <sup>M114</sup>Infanticide Act 1938 (infanticide),
- <sup>F31</sup>(c) .....
- <sup>F31</sup>(d) .....
- <sup>F31</sup>(e) .....
- <sup>F31</sup>(f) .....
- <sup>F31</sup>(g) .....
- <sup>F31</sup>(h) .....
- <sup>F31</sup>(i) .....
- (j) an offence under section 1 of the <sup>M115</sup>Protection of Children Act 1978 (indecent photographs of children),
- (k) an offence under section 1 of the <sup>M116</sup>Child Abduction Act 1984 (abduction of child by parent),
- (l) an offence under section 160 of the <sup>M117</sup>Criminal Justice Act 1988 (possession of indecent photograph of child),
- <sup>F32</sup>(m) an offence under any of sections 5 to 26 and 47 to 50 of the Sexual Offences Act 2003 (offences against children).]



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#### Extent Information

**E11** sch.4 para.1 extends to UK.see s.81(1)(2)(a) for th eextent

#### Textual Amendments

**F31** Sch. 4 paras. 1(c)-(i) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 7](#); S.I. 2004/874, art. 2

**F32** Sch. 4 para. 1(m) substituted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 44\(5\)](#) ([a](#)); S.I. 2004/874, art. 2

#### Marginal Citations

**M113** 1933 c. 12.

**M114** 1938 c. 36.

**M115** 1978 c. 37.

**M116** 1984 c. 37.

**M117** 1988 c. 33.

- 2 The offences mentioned in paragraph (b) of that subsection are—
- (a) murder,
  - (b) manslaughter,
  - (c) kidnapping,
  - (d) false imprisonment,
  - (e) an offence under section 18 or 20 of the Offences against the <sup>M118</sup>Person Act 1861 (wounding and causing grievous bodily harm),
  - (f) an offence under section 47 of that Act (assault occasioning actual bodily harm),
  - <sup>F33</sup>(g) .....
  - <sup>F33</sup>(h) .....
  - <sup>F33</sup>(i) .....
  - <sup>F33</sup>(j) .....
  - <sup>F33</sup>(k) .....
  - <sup>F33</sup>(l) .....
  - <sup>F33</sup>(m) .....
  - <sup>F34</sup>[<sup>F35</sup>(n) an offence under any of sections 1 to 4, 30 to 41, 52, 53, 57 to 61, 66 and 67 of the Sexual Offences Act 2003.]
  - <sup>F36</sup>(o) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc. ) Act 2004 (trafficking people for exploitation). ]

#### Extent Information

**E12** Sch. 4 para. 2 extends to UK, see s. 81(1)(2)(a) for the extent

#### Textual Amendments

**F33** Sch. 4 paras. 2(g)-(m) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 7](#); S.I. 2004/874, art. 2

**F34** Sch. 4 para. 2(n) inserted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [ss. 146\(4\)](#), [162\(2\)](#) (with s. 159); S.I. 2003/1, [art. 2](#), [Sch.](#)

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- F35** Sch. 4 para. 2(n) substituted (1.5.2004) by Sexual Offences Act 2003 (c. 42), s. 141, **Sch. 6 para. 44(5)(b)**; S.I. 2004/874, art. 2
- F36** Sch. 4 para. 2(o) inserted (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), **ss. 5(6), 48(3)**; S.S.I. 2004/494; S.I. 2004/2999, art. 2, Sch.

**Marginal Citations**  
**M118** 1861 c. 100.

- 3 A person falls within this paragraph if—
- (a) he commits an offence under section 16 of the Offences against the <sup>M119</sup>Person Act 1861 (threats to kill) by making a threat to kill a child,
  - <sup>F37</sup>(b) .....
  - <sup>F37</sup>(c) .....
  - <sup>F37</sup>(d) .....
  - <sup>F37</sup>(e) .....
  - <sup>F37</sup>(f) .....
  - <sup>F37</sup>(g) .....
  - <sup>F37</sup>(h) .....
  - <sup>F37</sup>(i) .....
  - <sup>F37</sup>(j) .....
  - <sup>F37</sup>(k) .....
  - <sup>F37</sup>(l) .....
  - <sup>F37</sup>(m) .....
  - <sup>F37</sup>(n) .....
  - <sup>F37</sup>(o) .....
  - <sup>F37</sup>(p) .....
  - <sup>F37</sup>(q) .....
  - <sup>F37</sup>(r) .....
  - (s) he commits an offence under section 4(3) of the <sup>M120</sup>Misuse of Drugs Act 1971 by—
    - (i) supplying or offering to supply a Class A drug to a child,
    - (ii) being concerned in the supplying of such a drug to a child, or
    - (iii) being concerned in the making to a child of an offer to supply such a drug,
  - <sup>F38</sup>(sa) he commits an offence under section 62 or 63 of the Sexual Offences Act 2003 (committing an offence or trespassing with intent to commit a sexual offence) in a case where the intended offence was an offence against a child.]
  - (t) he commits an offence of—
    - (i) aiding, abetting, counselling, procuring or inciting the commission of an offence against a child, or
    - (ii) conspiring or attempting to commit such an offence.

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#### Extent Information

**E13** sch.4 para.3 extends to UK.see s.81(1)(2)(a) for the extent

#### Textual Amendments

**F37** Sch. 4 paras. 3(b)-(r) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 7](#); S.I. 2004/874, art. 2

**F38** Sch. 4 para. 3(sa) inserted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 44\(5\)](#) (c); S.I. 2004/874, art. 2

#### Marginal Citations

**M119** 1861 c. 100.

**M120** 1971 c. 38.

## F39 SCHEDULE 5

Section 66.

#### Textual Amendments

**F39** Sch. 5 repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 44\(6\)](#), [Sch. 7](#); S.I. 2004/874, art. 2

## SCHEDULE 6

Section 70.

### TRIGGER OFFENCES

#### Commencement Information

**I18** Sch. 6 wholly in force at 2.7.2001; Sch. 6 not in force at Royal Assent see s. 80; Sch. 6 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(1\)](#)

1 Offences under the following provisions of the <sup>M121</sup>Theft Act 1968 are trigger offences:

#### Textual Amendments

**F40** Words in Sch. 6 para. 1 inserted (27.7.2004) by [The Criminal Justice and Court Services Act 2000 \(Amendment\) Order 2004 \(S.I. 2004/1892\)](#), arts. 1(1), [2\(2\)](#)

#### Commencement Information

**I19** Sch. 6 wholly in force at 2.7.2001; Sch. 6 not in force at Royal Assent see s. 80; Sch. 6 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), [art. 2\(1\)](#)

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#### Marginal Citations

M121 1968 c. 60.

- 2 Offences under the following provisions of the <sup>M122</sup>Misuse of Drugs Act 1971 are trigger offences, if committed in respect of a specified Class A drug:

#### Commencement Information

**I20** Sch. 6 wholly in force at 2.7.2001; Sch. 6 not in force at Royal Assent see s. 80; Sch. 6 in force for specified purposes at 20.6.2001 and 2.7.2001 insofar as not already in force by [S.I. 2001/2232](#), **art. 2(I)**

#### Marginal Citations

M122 1971 c. 38.

- [<sup>F413</sup>. An offence under section 1(1) of the Criminal Attempts Act 1981 is a trigger offence, if committed in respect of an offence under any of the following provisions of the Theft Act 1968:
- section 1 (theft)
  - section 8 (robbery)
  - section 9 (burglary)
  - section 15 (obtaining property by deception)
  - section 22 (handling stolen goods).

#### Textual Amendments

**F41** Sch. 6 para. 3, para. 4 inserted (27.7.2004) by [The Criminal Justice and Court Services Act 2000 \(Amendment\) Order 2004 \(S.I. 2004/1892\)](#), arts. 1(1), **2(3)**

4. Offences under the following provisions of the Vagrancy Act 1824 are trigger offences:
- section 3 (begging)
  - section 4 (persistent begging).]

#### Textual Amendments

**F41** Sch. 6 para. 3, para. 4 inserted (27.7.2004) by [The Criminal Justice and Court Services Act 2000 \(Amendment\) Order 2004 \(S.I. 2004/1892\)](#), arts. 1(1), **2(3)**

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## SCHEDULE 7

Section 74.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART I

##### NEW NAMES

###### *Community rehabilitation orders*

- 1 (1) In the provisions of the <sup>M123</sup>Powers of Criminal Courts (Sentencing) Act 2000 listed in sub-paragraph (2)—
- (a) for “probation order” there is substituted “community rehabilitation order”,
  - (b) for “probation orders” there is substituted “community rehabilitation orders”.
- (2) The provisions are—
- sections 33(1)(b), 35(2) and 36(3)(a),
  - in section 41, subsections (3), (4), (6) to (9) and (11) and the sidenote and preceding cross-heading,
  - in section 42, subsections (1) to (3) and the sidenote,
  - section 43 and the sidenote,
  - section 44,
  - the sidenote to section 45,
  - sections 51(4)(a), 69(5)(b) and 79(3)(a),
  - in section 163, paragraph (b) of the definition of “responsible officer”,
  - in Schedule 2—
  - in paragraph 1, sub-paragraphs (1) to (3),
  - in paragraph 2, sub-paragraphs (1), (2) and (5),
  - in paragraph 3, sub-paragraphs (1) to (3), (7) and (8)(b),
  - in paragraph 5, sub-paragraphs (1), (2), (4) to (7) and (8)(b),
  - in paragraph 6, sub-paragraphs (1) to (3), (5) to (7) and (8)(b),
  - in Schedule 3, paragraphs 1(1)(b), 6(2)(a), 12(3) and 19(2),
  - in Schedule 4—
  - in paragraph 1, sub-paragraphs (1) (in each place), (2), (3) (in both places) and (4) and the preceding cross-heading,
  - in paragraph 2, sub-paragraphs (1) (in both places), (2) to (4) and the preceding cross-heading,
  - paragraph 5(a),
  - paragraph 6(4) (in both places).

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#### Marginal Citations

M123 2000 c. 6.

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*Community punishment orders*

- 2 (1) In the provisions of the <sup>M124</sup>Powers of Criminal Courts (Sentencing) Act 2000 listed in sub-paragraph (2)—
- (a) for “community service order” there is substituted “ community punishment order ”,
  - (b) for “community service orders” there is substituted “ community punishment orders ”.
- (2) The provisions are—
- section 33(1)(c),
  - in section 35, subsections (2) and (4),
  - section 36(3)(b),
  - in section 46, subsections (3), (4), (6), (8) to (11) and (13) and the sidenote and preceding cross-heading,
  - in section 47, subsections (1) and (3) and the sidenote,
  - section 48 and the sidenote,
  - section 49,
  - the sidenote to section 50,
  - section 51(4)(b),
  - in section 59, subsections (3)(b), (6) (in each place) and (8)(b) and the sidenote,
  - sections 69(5)(b) and 73(4)(b),
  - in section 163, paragraph (c) of the definition of “responsible officer”,
  - in Schedule 3—
  - paragraph 1(1)(c),
  - in paragraph 7, sub-paragraphs (1), (2) and (3)(a),
  - paragraphs 18(5) and 22(a),
  - in Schedule 4—
  - in paragraph 3, sub-paragraphs (1) (in the first, second and third places), (2) (in the first and third places) and (3) (in the first place) and the preceding cross-heading,
  - in paragraph 4, sub-paragraphs (1) (in both places), (2) and (3) (in the first place),
  - paragraph 5(b),
  - paragraph 6(4)(c).

**Marginal Citations**

**M124** 2000 c. 6.

*Community punishment and rehabilitation orders*

- 3 (1) In the provisions of the Powers of Criminal Courts (Sentencing) Act 2000 listed in sub-paragraph (2)—
- (a) for “combination order” there is substituted “ community punishment and rehabilitation order ”,
  - (b) for “combination orders” there is substituted “ community punishment and rehabilitation orders ”.

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- (2) The provisions are—
- sections 33(1)(d), 35(2) and 36(3)(c),
  - in section 51, subsections (3) to (6), and the sidenote and preceding cross-heading,
  - sections 69(5)(b) and 73(4)(b),
  - in section 163, paragraph (d) of the definition of “responsible officer”,
  - in Schedule 3—
  - in paragraph 1, sub-paragraphs (1)(d) and (4)(a),
  - paragraphs 6(2)(a), 7(3)(b) (in both places) and 12(3),
  - in paragraph 18, sub-paragraphs (4) and (5),
  - in paragraph 19, sub-paragraphs (1) (in each place) and (2),
  - paragraph 22(a),
  - in Schedule 4—
  - paragraph 5 and the preceding cross-heading,
  - paragraph 6(4)(a).

*Officers of local probation boards*

- 4 (1) In the following enactments—
- (a) for “a probation officer” there is substituted “ an officer of a local probation board ”,
  - (b) for “the probation officer” there is substituted “ the officer of a local probation board ”.
- (2) The enactments are—
- In the <sup>M125</sup>Children and Young Persons Act 1969—
  - section 23(4) (as it has effect pursuant to section 98(3) of the <sup>M126</sup>Crime and Disorder Act 1998 (alternative provision for 15 and 16 year old boys)),
  - in section 34, subsections (2) and (3).
  - In the <sup>M127</sup>Criminal Procedure (Insanity and Unfitness to Plead) Act 1991—
  - in Schedule 2, in paragraph 3, sub-paragraphs (1)(b) and (3).
  - In the <sup>M128</sup>Criminal Justice Act 1991—
  - section 37(4A)(a),
  - section 43(5),
  - in section 65, subsections (1)(a) and (1A) (in both places),
  - in Schedule 3, paragraph 11(5)(b).
  - In the <sup>M129</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993—
  - sections 12(2)(a) and 15(4).
  - In the <sup>M130</sup>Criminal Procedure (Scotland) Act 1995—
  - sections 209(3)(a) and 234(1)(a).
  - In the <sup>M131</sup>Crime (Sentences) Act 1997—
  - section 31(2A)(a).
  - In the Crime and Disorder Act 1998—
  - sections 8(8)(a), 18(3) (in both places) and 39(5)(a).
  - In the <sup>M132</sup>Powers of Criminal Courts (Sentencing) Act 2000—

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in section 41, subsections (4), (5)(a), (6) and (9)(a) and (b),  
in section 46, subsections (5)(a) and (b) and (11)(a) and (b),  
in section 54, subsections (2) and (3),  
in section 57, subsections (1) to (4),  
sections 63(1)(b) and 64(2) (in both places),  
in section 69, subsections (4)(a), (6)(a) and (9),  
section 73(5),  
in section 74, subsections (5)(a) and (6),  
in section 103, subsections (3)(a) and (4) (in both places),  
in section 122, subsections (2) and (5),  
sections 157(1)(a) and 162(2)(a) and (b),  
in Schedule 2—  
paragraph 2(2)(a)(i) and (ii),  
paragraph 3(2)(a) and (b).

#### Marginal Citations

M125 1969 c. 54.  
M126 1998 c. 37.  
M127 1991 c. 25.  
M128 1991 c. 53.  
M129 1993 c. 9.  
M130 1995 c. 46.  
M131 1997 c. 43.  
M132 2000 c. 6.

## PART II

### GENERAL

PROSPECTIVE

#### *Children and Young Persons Act 1933 (c. 12)*

5 In section 49(6)(c) of the Children and Young Persons Act 1933 (restrictions on reports of proceedings), for “21” there is substituted “ 18 ”.

#### *Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)*

6 In Part I of the Second Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (capacities in respect of which payments may be made under Part V, and paying authorities), for paragraphs 6 and 7 there is substituted—

“6. Member of the staff of a local probation board or of two or more local probation boards established under

The local probation board or, as the case may be, the local probation boards acting jointly.



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section 4 of the Criminal Justice and Court Services Act 2000

7. Chief officer of a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000      The Secretary of State.”

PROSPECTIVE

*Prison Act 1952 (c. 52)*

- 7      The Prison Act 1952 is amended as follows.
- 8      In section 13(2) (legal custody of prisoner), for “section 95, 98, 99 or 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ section 99 of the <sup>M133</sup>Powers of Criminal Courts (Sentencing) Act 2000 or section 61 of the Criminal Justice and Court Services Act 2000 ”.

**Marginal Citations**

M133 2000 c. 6.

- 9      In section 37(4) (closing of prisons), “remand centre” is omitted.
- 10     In section 43 (remand centres, detention centres and youth custody centres)—
- (a) in subsection (2)—
- (i) in paragraph (a), for “21” there is substituted “ 18 ” and “a remand centre or” is omitted,
- (ii) paragraphs (b) and (c) are omitted,
- (b) subsection (3) is omitted,
- (c) in subsection (4), “remand centres” is omitted,
- (d) subsection (7) is omitted.
- 11     In section 47 (rules for the management of prisons, remand centres, detention centres and borstal institutions)—
- (a) in subsection (1) and the sidenote, “remand centres” is omitted,
- (b) in subsection (5), “remand centre” is omitted.

*Army Act 1955 (c. 18)*

- 12     The Army Act 1955 is amended as follows.

PROSPECTIVE

- 13     In section 57(2A) (offences in relation to courts-martial), for “twenty-one” there is substituted “ eighteen ”.
- 14     In section 71(1) (punishments which may be awarded by sentence of a court-martial), after paragraph (bb) there is inserted—

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“(bc) order that the convicted person be disqualified from working with children”.

- 15 (1) In section 71A (juveniles)—
- (a) in subsections (1), (1D) and (1E)(i), for “21” there is substituted “ 18 ”,
  - (b) subsections (1A) to (1C) are omitted,
  - (c) in subsection (1D), paragraph (b) and the “and” preceding it are omitted,
  - (d) in subsection (1E), paragraph (b) and the “or” preceding it are omitted,
  - (e) in subsection (3), after “murder” there is inserted “ or any other offence the sentence for which is fixed by law as life imprisonment ”,
  - (f) in subsection (4), for “an adult” (in both places) there is substituted “ a person who has attained 18 years of age ”,
  - (g) in subsection (5), “custody for life or” and “and to a sentence of custody for life” are omitted.
- (2) Sub-paragraph (1)(e) has effect in relation to sentences passed after the coming into force of section 60.

#### Commencement Information

**I21** Sch.7 para.15 partly in force:Sch.7 para.15(1)(e) and (2) comes into force at RA.see s.80(3)(d)

PROSPECTIVE

- 16 In section 71AA (young service offenders: custodial orders)—
- (a) in subsection (1)—
    - (i) for “twenty-one” (in both places) there is substituted “ eighteen ”,
    - (ii) for paragraph (a) there is substituted—
      - “(a) shall be not less than the period of two months; and”,
  - (b) in subsection (1AA), “aged 17” is omitted,
  - (c) in paragraph (a) of subsection (6), for the words from “any institution” to the end of the paragraph there is substituted “ such secure accommodation (within the meaning of section 107 of the <sup>M134</sup>Powers of Criminal Courts (Sentencing) Act 2000) as may be determined by the Secretary of State or by such other person as may be authorised by him for that purpose ”,
  - (d) in subsection (6A), for “detention in a young offender institution” there is substituted “ imprisonment ”.

#### Marginal Citations

**M134** 2000 c. 6.

PROSPECTIVE

- 17 In section 71AB(1) (reasons to be given where custodial sentence awarded to young offender), paragraph (b) and the “or” preceding it are omitted.

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**Changes to legislation:** Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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)

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- 18 (1) Schedule 5A (powers of court on trial of civilian) is amended as follows.
- (2) In paragraph 10—
- (a) in sub-paragraph (1)—
- (i) for “under 21” there is substituted “ under 18 ” and for “age of 21” there is substituted “ age of 18 ”,
- (ii) for paragraph (a) there is substituted—
- “(a) shall not be less than the period of two months;”,
- (b) in sub-paragraph (1A), “under 18 years of age” is omitted,
- (c) in sub-paragraph (1AA)(a), for “21” there is substituted “ 18 ”,
- (d) in paragraph (a) of sub-paragraph (6), for the words from “any institution” to the end of the paragraph there is substituted “ such secure accommodation (within the meaning of section 107 of the <sup>M135</sup>Powers of Criminal Courts (Sentencing) Act 2000) as may be determined by the Secretary of State or by such other person as may be authorised by him for that purpose ”,
- (e) in sub-paragraph (6A), for “detention in a young offender institution” there is substituted “ imprisonment ”.
- (3) In paragraph 15—
- (a) in sub-paragraph (3), in paragraphs (a) and (b), for “21” there is substituted “ 18 ”,
- (b) in the table—
- (i) in the heading to the first column, for “21” there is substituted “ 18 ”,
- (ii) for the heading to the second column there is substituted “ Offender aged 17 but under 18 ”,
- (iii) in the second column, “Custody for life” is omitted,
- (c) in the note following the table—
- (i) in sub-paragraph (a), after “murder” there is inserted “ or any other offence the sentence for which is fixed by law as life imprisonment ”,
- (ii) in sub-paragraph (i), for “custody for life” there is substituted “ a custodial order ”.
- (4) Sub-paragraph (3)(c)(i) has effect in relation to sentences passed after the coming into force of section 60.

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**Commencement Information**

**I22** Sch.7 para.18 partly in force:Sch.7 para.18(3)(c)(i) and (4) comes into force at RA.see s.80(3)(d)

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**Marginal Citations**

**M135** 2000 c. 6.

*Air Force Act 1955 (c. 19)*

- 19 The Air Force Act 1955 is amended as follows.

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## PROSPECTIVE

- 20 In section 57(2A) (offences in relation to courts-martial), for “twenty-one” there is substituted “eighteen”.
- 21 In section 71(1) (punishments which may be awarded by sentence of a court-martial), after paragraph (bb) there is inserted—  
“(bc) order that the convicted person be disqualified from working with children”.
- 22 (1) In section 71A (juveniles)—  
(a) in subsections (1), (1D) and (1E)(i), for “21” there is substituted “18”,  
(b) subsections (1A) to (1C) are omitted,  
(c) in subsection (1D), paragraph (b) and the “and” preceding it are omitted,  
(d) in subsection (1E), paragraph (b) and the “or” preceding it are omitted,  
(e) in subsection (3), after “murder” there is inserted “or any other offence the sentence for which is fixed by law as life imprisonment”,  
(f) in subsection (4), for “an adult” (in both places) there is substituted “a person who has attained 18 years of age”,  
(g) in subsection (5), “custody for life or” and “and to a sentence of custody for life” are omitted.
- (2) Sub-paragraph (1)(e) has effect in relation to sentences passed after the coming into force of section 60.

**Commencement Information**

**I23** Sch.7 para.22 partly in force:Sch.7 para.22(1)(e) and (2) comes into force at RA.see s.80(3)(d)

## PROSPECTIVE

- 23 In section 71AA (young service offenders: custodial orders)—  
(a) in subsection (1)—  
(i) for “twenty-one” (in both places) there is substituted “eighteen”,  
(ii) for paragraph (a) there is substituted—  
“(a) shall be not less than the period of two months;  
and”,  
(b) in subsection (1AA), “aged 17” is omitted,  
(c) in paragraph (a) of subsection (6), for the words from “any institution” to the end of the paragraph there is substituted “such secure accommodation (within the meaning of section 107 of the <sup>M136</sup>Powers of Criminal Courts (Sentencing) Act 2000) as may be determined by the Secretary of State or by such other person as may be authorised by him for that purpose”,  
(d) in subsection (6A), for “detention in a young offender institution” there is substituted “imprisonment”.

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#### Marginal Citations

M136 2000 c. 6.

#### PROSPECTIVE

- 24 In section 71AB(1) (reasons to be given where custodial sentence awarded to young offender), paragraph (b) and the “or” preceding it are omitted.
- 25 (1) Schedule 5A (powers of court on trial of civilian) is amended as follows.
- (2) In paragraph 10—
- (a) in sub-paragraph (1)—
- (i) for “under 21” there is substituted “ under 18 ” and for “age of 21” there is substituted “ age of 18 ”,
- (ii) for paragraph (a) there is substituted—
- “(a) shall not be less than the period of two months;”,
- (b) in sub-paragraph (1A), “under 18 years of age” is omitted,
- (c) in sub-paragraph (1AA)(a), for “21” there is substituted “ 18 ”,
- (d) in paragraph (a) of sub-paragraph (6), for the words from “any institution” to the end of the paragraph there is substituted “ such secure accommodation (within the meaning of section 107 of the Powers of Criminal Courts (Sentencing) Act 2000) as may be determined by the Secretary of State or by such other person as may be authorised by him for that purpose ”,
- (e) in sub-paragraph (6A), for “detention in a young offender institution” there is substituted “ imprisonment ”.
- (3) In paragraph 15—
- (a) in sub-paragraph (3), in paragraphs (a) and (b), for “21” there is substituted “ 18 ”,
- (b) in the table—
- (i) in the heading to the first column, for “21” there is substituted “ 18 ”,
- (ii) for the heading to the second column there is substituted “ Offender aged 17 but under 18 ”,
- (iii) in the second column, “Custody for life” is omitted,
- (c) in the note following the table—
- (i) in sub-paragraph (a), after “murder” there is inserted “ or any other offence the sentence for which is fixed by law as life imprisonment ”,
- (ii) in sub-paragraph (i), for “custody for life” there is substituted “ a custodial order ”.
- (4) Sub-paragraph (3)(c)(i) has effect in relation to sentences passed after the coming into force of section 60.

#### Commencement Information

I24 Sch.7 para.25 partly in force:Sch.7 para.25(3)(c)(i) and (4) comes into force at RA.see s.80(3)(d)

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*Naval Discipline Act 1957 (c. 53)*

26 The Naval Discipline Act 1957 is amended as follows.

PROSPECTIVE

- 27 In section 38(3A) (offences in relation to courts-martial), for “twenty-one” there is substituted “eighteen”.
- 28 In section 43(1) (punishments which may be awarded to persons convicted of offences under Part I of that Act), after paragraph (bb) there is inserted—  
“(bc) order that the convicted person be disqualified from working with children”.
- 29 (1) In section 43A (juveniles)—  
(a) in subsections (1), (1D) and (1E)(i), for “21” there is substituted “18”,  
(b) subsections (1A) to (1C) are omitted,  
(c) in subsection (1D), paragraph (b) and the “and” preceding it are omitted,  
(d) in subsection (1E), paragraph (b) and the “or” preceding it are omitted,  
(e) in subsection (3), after “murder” there is inserted “or any other offence the sentence for which is fixed by law as life imprisonment”,  
(f) in subsection (4), for “an adult” (in both places) there is substituted “a person who has attained 18 years of age”,  
(g) in subsection (5), “custody for life or” and “and to a sentence of custody for life” are omitted.
- (2) Sub-paragraph (1)(e) has effect in relation to sentences passed after the coming into force of section 60.

**Commencement Information**

**I25** Sch.7 para.29 partly in force:Sch.7 para.29(1)(e) and (2) comes into force at RA. see s.80(3)(d)

PROSPECTIVE

- 30 In section 43AA (young service offenders: custodial orders)—  
(a) in subsection (1)—  
(i) for “twenty-one” (in both places) there is substituted “eighteen”,  
(ii) for paragraph (a) there is substituted—  
“(a) shall be not less than the period of two months;  
and”,  
(b) in subsection (1AA), “aged 17” is omitted,  
(c) in paragraph (a) of subsection (6), for the words from “any institution” to the end of the paragraph there is substituted “such secure accommodation (within the meaning of section 107 of the <sup>M137</sup>Powers of Criminal Courts (Sentencing) Act 2000) as may be determined by the Secretary of State or by such other person as may be authorised by him for that purpose”,  
(d) in subsection (6A), for “detention in a young offender institution” there is substituted “imprisonment”.

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#### Marginal Citations

M137 2000 c. 6.

#### PROSPECTIVE

- 31 In section 43AB(1) (reasons to be given where custodial sentence awarded to young offender), paragraph (b) and the “or” preceding it are omitted.
- 32 (1) Schedule 4A (powers of court on trial of civilian) is amended as follows.
- (2) In paragraph 10—
- (a) in sub-paragraph (1)—
- (i) for “under 21” there is substituted “ under 18 ” and for “age of 21” there is substituted “ age of 18 ”,
- (ii) for paragraph (a) there is substituted—
- “(a) shall not be less than the period of two months; and”,
- (b) in sub-paragraph (1A), “under 18 years of age” is omitted,
- (c) in sub-paragraph (1AA)(a), for “21” there is substituted “ 18 ”,
- (d) in paragraph (a) of sub-paragraph (6), for the words from “any institution” to the end of the paragraph there is substituted “ such secure accommodation (within the meaning of section 107 of the Powers of Criminal Courts (Sentencing) Act 2000) as may be determined by the Secretary of State or by such other person as may be authorised by him for that purpose ”,
- (e) in sub-paragraph (6A), for “detention in a young offender institution” there is substituted “ imprisonment ”.
- (3) In paragraph 15—
- (a) in sub-paragraph (3), in paragraphs (a) and (b), for “21” there is substituted “ 18 ”,
- (b) in the table—
- (i) in the heading to the first column, for “21” there is substituted “ 18 ”,
- (ii) for the heading to the second column there is substituted “ Offender aged 17 but under 18 ”,
- (iii) in the second column, “Custody for life” is omitted,
- (c) in the note following the table—
- (i) in sub-paragraph (a), after “murder” there is inserted “ or any other offence the sentence for which is fixed by law as life imprisonment ”,
- (ii) in sub-paragraph (i), for “custody for life” there is substituted “ a custodial order ”.
- (4) Sub-paragraph (3)(c)(i) has effect in relation to sentences passed after the coming into force of section 60.

#### Commencement Information

I26 Sch.7 para.32 partly in force:Sch.7 para.32(3)(c)(i) and (4) comes into force at RA.see s.80(3)(d)

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PROSPECTIVE

*Criminal Justice Act 1961 (c. 39)*

- 33 In section 23(4) of the Criminal Justice Act 1961 (prison rules), for “secure training centres and remand centres” there is substituted “ and secure training centres ”.

PROSPECTIVE

*Criminal Justice Act 1967 (c. 80)*

- 34 The Criminal Justice Act 1967 is amended as follows.
- 35 In section 34 (committal of persons under twenty-one accused of extradition crimes etc.), for “twenty-one” there is substituted “ eighteen ”.
- 36 In section 67(6) (computation of sentences of imprisonment passed in England and Wales), “to a remand centre or” is omitted.

*Social Work (Scotland) Act 1968 (c. 49)*

- 37 In section 94(1) of the Social Work (Scotland) Act 1968 (interpretation)—
- (a) at the appropriate place there is inserted—
- ““community rehabilitation order” has the meaning given by section 43 of the Criminal Justice and Court Services Act 2000”,
- (b) for the definition of “probation order” there is substituted—
- ““probation order”—
- (a) in relation to an order imposed by a court in England or Wales, means a community rehabilitation order,
- (b) in relation to an order imposed by a court in Northern Ireland, has the same meaning as in the <sup>M138</sup>Criminal Justice (Northern Ireland) Order 1996.”.

**Marginal Citations**

**M138** S.I. 1996/3160 (N.I. 24).

*Children and Young Persons Act 1969 (c. 54)*

- 38 The Children and Young Persons Act 1969 is amended as follows.

PROSPECTIVE

F4239 .....



*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*  
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### Textual Amendments

**F42** Sch. 7 para. 39 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 12 para. 46\(3\)](#); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

- 40 In section 34(3) (transitional modifications of Part I), for “probation committee” there is substituted “ local probation board ”.
- 41 In section 46(1) (discontinuance of approved schools etc.), “within the meaning of the <sup>M139</sup>Probation Service Act 1993” is omitted.

### Marginal Citations

**M139** 1993 c. 47.

- 42 In section 70(1) (general interpretation), at the appropriate place there is inserted—
- ““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;”.
- 43 (1) Schedule 3 (approved schools and other institutions) is amended as follows.
- (2) In paragraph 6(1), after “ <sup>M140</sup>Probation Service Act 1993” there is inserted “ or section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000 ”.
- (3) In paragraph 9—
- (a) in sub-paragraph (2)—
- (i) for “either” there is substituted “ any ”,
- (ii) in paragraph (a), “or” is omitted,
- (iii) after paragraph (b) there is inserted—
- “(c) section 3 of the Criminal Justice and Court Services Act 2000 (functions of the Secretary of State);
- (d) section 5 of that Act (functions of local probation boards); or
- (e) section 9 of that Act (approved premises),”
- (b) for sub-paragraph (4)(b) there is substituted—
- “(b) the amount which in his opinion represents the proportion of the contributions paid by local authorities under section 90 of the Act of 1933 or (as the case may be) the proportion of the sums paid by—
- (i) probation committees under rules made under the Probation Service Act 1993,
- (ii) the Secretary of State under section 3 or 9 of the Criminal Justice and Court Services Act 2000, and
- (iii) local probation boards under section 5 of that Act, which (in either case) should be treated as having been paid on account of expenditure of a capital nature in connection with the former approved institution;”.
- (4) In paragraph 10(4)(b), after “Probation Service Act 1993” there is inserted “ or under section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000 ”.

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**Marginal Citations**

M140 1993 c. 47.

*Local Authorities (Goods and Services) Act 1970 (c. 39)*

- 44 (1) Subject to sub-paragraph (2), in section 1(4) of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) “public body” includes a local probation board established under section 4 of this Act.
- (2) An order under section 1(5) of the Local Authorities (Goods and Services) Act 1970 (power to provide that a person or description of persons shall be a public body for the purposes of that Act) may repeal the provisions of sub-paragraph (1) above as they apply to a local probation board specified in the order.

*Pensions (Increase) Act 1971 (c. 56)*

- 45 In Schedule 2 to the <sup>M141</sup>Pensions (Increase) Act 1971 (official pensions), after paragraph 53 there is inserted—
- “53A A pension payable in accordance with regulations under section 7 of the <sup>M142</sup>Superannuation Act 1972 in respect of service as chairman, chief officer, member or member of the staff of a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000.”

**Marginal Citations**

M141 1972 c. 11.

M142 1972 c. 11.

*Local Government Act 1972 (c. 70)*

- 46 In Part I of Schedule 12A to the Local Government Act 1972 (access to information: exempt information)—
- (a) in paragraph 2(a), “or” is omitted,
- (b) at the end of paragraph 2(b) there is inserted “or
- (c) a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.”,
- (c) after paragraph 2 there is inserted—
- “2A Information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.”

*Juries Act 1974 (c. 23)*

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### Textual Amendments

**F43** Sch. 7 para. 47 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 10; S.I. 2004/829, art. 2(1)(2)(I)(iv)

#### *Rehabilitation of Offenders Act 1974 (c. 53)*

- 48 The Rehabilitation of Offenders Act 1974 is amended as follows.
- 49 In section 5 (rehabilitation periods for particular sentences)—
- (a) in subsection (4A), for “a person was placed on probation” there is substituted “ a probation order was made ”,
  - (b) in subsection (4A)(b), for “probation order” there is inserted “ order in question ”.
- 50 In section 6(3) (the rehabilitation period applicable to a conviction)—
- (a) for “placed on probation” there is substituted “ a probation order was made ”,
  - (b) for “or probation” there is substituted “ or a breach of the order ”.

#### *Adoption Act 1976 (c. 36)*

- 51 The Adoption Act 1976 is amended as follows.
- 52 In section 65 (guardians ad litem and reporting officers)—
- (a) in subsection (1)—
    - (i) after “as are prescribed” there is inserted “ of an officer of the Service ”,
    - (ii) in paragraph (a), for the words from the beginning to “litem” there is substituted “ to act on behalf ”,
    - (iii) in paragraph (b), “of a person to act as reporting officer” is omitted,
  - (b) in subsection (2)—
    - (i) for “as guardian ad litem or reporting officer” there is substituted “ under subsection (1) ”,
    - (ii) for “be both guardian ad litem and reporting officer” there is substituted “ act under both paragraphs (a) and (b) of subsection (1) ”,
  - (c) after subsection (2) there is inserted—
    - “(3) Rules of court may make provision as to the assistance which an officer of the Service may be required by the court to give to it.
    - (4) In this section “officer of the Service” has the same meaning as in the Criminal Justice and Court Services Act 2000.”,
  - (d) for the sidenote there is substituted “ Duties of officers of the Service ”.
- 53 Section 65A (panels for selection of guardians ad litem and reporting officers) is omitted.

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PROSPECTIVE

*Criminal Law Act 1977 (c. 45)*

- 54 The Criminal Law Act 1977 is amended as follows.
- 55 In section 38A(5) (execution in different parts of United Kingdom of warrants for imprisonment for non-payment of fine), in the definition of “prison”, for paragraph (ia) there is substituted—
- “(ia) in the case of a person under that age arrested in England and Wales, any prison, or any young offender institution in which one or more persons mentioned in section 61(3), (4) or (5) of the Criminal Justice and Court Services Act 2000 are detained, determined by the Secretary of State (in respect of that person or a description of persons including that person);”.
- 56 In section 38B(5) (further provision for execution of warrants of commitment), in the definition of “prison”, for paragraph (a) there is substituted—
- “(a) in the case of a person who is under the age of 21 years arrested in England and Wales, any prison, or any young offender institution in which one or more persons mentioned in section 61(3), (4) or (5) of the Criminal Justice and Court Services Act 2000 are detained, determined by the Secretary of State (in respect of that person or a description of persons including that person); and”.

*Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22)*

- 57 In section 26(2) of the Domestic Proceedings and Magistrates’ Courts Act 1978 (reconciliation)—
- (a) for “a probation officer” there is substituted “ an officer of the Service (within the meaning of the Criminal Justice and Court Services Act 2000) ”,
- (b) for “the probation officer or that” there is substituted “ that officer or ”.

*Magistrates’ Courts Act 1980 (c. 43)*

- 58 The Magistrates’ Courts Act 1980 is amended as follows.

PROSPECTIVE

- 59 In section 11(3) (non-appearance of accused: general provisions), “or detention in a detention centre” is omitted.

PROSPECTIVE

- 60 In section 31 (general limit on power of magistrates’ court to impose imprisonment), in subsections (1) and (2), “or youth custody” is omitted.
- 61 Section 72 (report by probation officer on means of parties) is omitted.

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PROSPECTIVE

- 62 In section 77(2) (postponement of issue of warrant), “or detention under section 108 of the Powers of <sup>M143</sup>Criminal Courts (Sentencing) Act 2000 (detention of persons aged 18 to 20 for default)” is omitted.

**Marginal Citations**

[M143 2000 c. 6.](#)

PROSPECTIVE

- 63 In section 82 (restriction on power to impose imprisonment for default)—
- (a) in subsection (1)(c), “youth custody or detention in a detention centre” is omitted,
  - (b) in subsections (1)(c), (3)(a) and (5)(b), for “section 9 of the <sup>M144</sup>Criminal Justice Act 1982” there is substituted “ section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ”,
  - (c) in subsection (4A)(e), for “section 17 of the <sup>M145</sup>Criminal Justice Act 1982” there is substituted “ section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**

[M144 1982 c. 48.](#)

[M145 1982 c. 48.](#)

PROSPECTIVE

- 64 In section 88 (supervision pending payment)—
- (a) in subsection (4), for “detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ prison ” and for “such detention” there is substituted “ prison ”,
  - (b) in subsection (5), for “such detention” there is substituted “ prison ”.

PROSPECTIVE

- 65 Section 96A (application of Part III to persons aged 18 to 20) is omitted.

PROSPECTIVE

- 66 In section 133 (consecutive terms of imprisonment)—
- (a) in subsection (1), the first, second and fourth mentions of “or youth custody” are omitted,
  - (b) subsection (2A) is omitted.

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## PROSPECTIVE

67 In section 135 (detention of offender for one day in court house or police station), subsection (3) is omitted.

## PROSPECTIVE

68 In section 136 (committal to custody overnight at police station), subsection (4) is omitted.

## PROSPECTIVE

F44 69 .....

## Textual Amendments

F44 Sch. 7 para. 69 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, art. 2(u)(xxix)

## PROSPECTIVE

*Imprisonment (Temporary Provisions) Act 1980 (c. 57)*

70 In section 6 of the Imprisonment (Temporary Provisions) Act 1980 (detention in the custody of a constable), in subsections (1) and (2), “remand centre” is omitted.

*Criminal Justice Act 1982 (c. 48)*

71 In paragraph 7(3)(b) of Schedule 13 to the Criminal Justice Act 1982 (reciprocal arrangements), for “probation committee for that area to appoint or assign a probation officer” there is substituted “ local probation board for that area (established under section 4 of the Criminal Justice and Court Services Act 2000) to appoint or assign an officer of the board ”.

*Mental Health Act 1983 (c. 20)*

72 The Mental Health Act 1983 is amended as follows.

## PROSPECTIVE

73 In section 48(2)(a) (removal to hospital of other prisoners), “or remand centre” is omitted.

74 In section 134(3)(e) (correspondence of patients), for “probation committee (within the meaning of the <sup>M146</sup>Probation Service Act 1993)” there is substituted “ local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 ”.

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#### Marginal Citations

M146 1993 c. 47.

#### *Health and Social Services and Social Security Adjudications Act 1983 (c. 41)*

- 75 In section 10(16) of the Health and Social Services and Social Security Adjudications Act 1983 (central council for education and training in social work), paragraph (b) and the “and” preceding it are omitted.

#### *Police and Criminal Evidence Act 1984 (c. 60)*

PROSPECTIVE

- 76 The Police and Criminal Evidence Act 1984 is amended as follows.

PROSPECTIVE

F45-77 .....

#### Textual Amendments

F45 Sch. 7 para. 77 repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8)(8), Sch. 17 Pt. 2; S.I. 2005/3495, art. 2(1)(u)

- 78 In section 62 (intimate samples), at the beginning of subsection (1) there is inserted “ Subject to section 63B below ”.

#### Commencement Information

I27 Sch. 7 para. 78 wholly in force at 2.7.2001; Sch. 7 para. 78 not in force at Royal Assent see s. 80; Sch. 7 para. 78 in force for specified purposes at 20.6.2001 and insofar as not already in force at 2.7.2001 by S.I. 2001/2232, art. 2(m)(i)

#### *Child Abduction and Custody Act 1985 (c. 60)*

- 79 The Child Abduction and Custody Act 1985 is amended as follows.
- 80 In sections 6(a) and 21(a) (reports), for “a probation officer” there is substituted “an officer of the Service”.
- 81 In section 27 (interpretation), after subsection (4) there is inserted—  
“(5) In this Act “officer of the Service” has the same meaning as in the Criminal Justice and Court Services Act 2000.”

*Status:* Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.  
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*Local Government Act 1988 (c. 9)*

- 82 In the Local Government Act 1988, in Schedule 2 (public supply or works contracts: the public authorities), for “A probation committee (within the meaning of the <sup>M147</sup>Probation Service Act 1993)” there is substituted “ A local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 ”.

**Marginal Citations**

M147 1993 c. 47.

*Education Reform Act 1988 (c. 40)*

- F46 83 .....

**Textual Amendments**

F46 Sch. 7 para. 83 repealed (31.3.2003 for W., 1.6.2003 for E.) by 2002 c. 32, ss. 215(2), 216, 217, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/3185, art. 5 Sch. Pt. II; S.I. 2003/1115, art. 3

*Local Government Finance Act 1988 (c. 41)*

- 84 The Local Government Finance Act 1988 is amended as follows.
- 85 In section 74(1)(c) (levies), for “magistrates’ courts committee or probation committee” there is substituted “ or magistrates’ courts committee ”.
- 86 In section 117(5)(c) (rates and precepts: abolition), for “magistrates’ courts committee or probation committee” there is substituted “ or magistrates’ courts committee ”.

*Children Act 1989 (c. 41)*

- 87 The Children Act 1989 is amended as follows.
- 88 In section 7 (welfare reports)—
- (a) in subsection (1), for “a probation officer” (in both places) there is substituted “ an officer of the Service ”,
  - (b) in subsection (5), for “probation officer” there is substituted “ officer of the Service ”.
- 89 In section 16 (family assistance orders)—
- (a) in subsection (1)(a), for “a probation officer” there is substituted “ an officer of the Service ”,
  - (b) subsections (8) and (9) are omitted.
- 90 In section 31(1)(b) (care and supervision orders), “or of a probation officer” is omitted.
- 91 In section 41 (representation of child and of his interests in certain proceedings)—
- (a) in subsections (1) and (11), for “a guardian ad litem” there is substituted “ an officer of the Service ”,



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- (b) in subsections (2), (4)(a) and (10)(a) and (b), for “guardian ad litem” there is substituted “ officer of the Service ”,
  - (c) in subsection (10)(c), for “guardians ad litem” there is substituted “ officers of the Service ”,
  - (d) subsections (7) to (9) and (12) are omitted,
  - (e) for the cross-heading preceding section 41 there is substituted “ Representation of child ”.
- 92 In section 42 (right of guardian ad litem to have access to local authority records)—
- (a) in subsection (1)—
    - (i) for “a person” there is substituted “ an officer of the Service ”,
    - (ii) for “as a guardian ad litem under this Act” there is substituted “ under section 41 ”,
  - (b) in subsection (2), for “a guardian ad litem” there is substituted “ an officer of the Service ”,
  - (c) for the sidenote there is substituted “ Right of officer of the Service to have access to local authority records ”.
- 93 In section 58(4) (financial provisions applicable on cessation of controlled or assisted community home or disposal etc of premises)—
- (a) in paragraph (a), “or” is omitted,
  - (b) in paragraph (b), after “hostels or homes” there is inserted “or
  - (c) of sums paid under section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000 in relation to expenditure on approved premises (within the meaning of Part I of that Act).”
- 94 In section 68(2)(d), (persons disqualified from being private foster parents), for “has been placed on probation or” there is substituted “ a probation order has been made in respect of him or he has been ”.
- 95 In section 105(1) (interpretation), at the appropriate place there is inserted—
- ““officer of the Service” has the same meaning as in the Criminal Justice and Court Services Act 2000;”.
- 96 In Schedule 3 (supervision orders), in paragraph 9, sub-paragraphs (2) to (5) are omitted.
- 97 In Schedule 10 (amendments of adoption legislation), paragraph 29 is omitted.

PROSPECTIVE

*Computer Misuse Act 1990 (c. 18)*

- 98 In section 2(2)(b) of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences), for “of twenty-one years of age or over (not previously convicted)” there is substituted “ who has attained the age of twenty-one years (eighteen in relation to England and Wales) and has no previous convictions ”.

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*Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25)*

- 99 The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 is amended as follows.
- 100 In section 6(1) (general interpretation), at the appropriate place there is inserted—  
““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;”.

PROSPECTIVE

**No  
commentary  
item  
could be  
found  
for this  
reference  
key-14fac534515f494ce91f45fc358089b1101**

- 102 In Schedule 2 (supervision and treatment orders), in paragraph 1(1)(a), for “probation officer” there is substituted “ an officer of a local probation board ”.

*Criminal Justice Act 1991 (c. 53)*

- 103 The Criminal Justice Act 1991 is amended as follows.

PROSPECTIVE

<sup>F47</sup>104 .....

**Textual Amendments**

**F47** Sch. 7 paras. 104-107 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (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))

- 105 In section 37A (curfew condition to be included in licence), subsection (7) is omitted.

**Commencement Information**

**I28** [Sch. 7 para. 105](#) wholly in force at 2.7.2001; [Sch. 7 para. 105](#) not in force at Royal Assent see [s. 80](#); [Sch. 7 para. 105](#) in force for specified purposes at 20.6.2001 and insofar as not already in force at 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(m\)\(ii\)](#)

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PROSPECTIVE

F47 106 .....

**Textual Amendments**

**F47** Sch. 7 paras. 104-107 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (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))

PROSPECTIVE

F47 107 .....

**Textual Amendments**

**F47** Sch. 7 paras. 104-107 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (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))

PROSPECTIVE

108 In section 68 (persons aged 17 to be treated as young persons for certain purposes), paragraph (b) is omitted.

PROSPECTIVE

109 In section 92(1) (interpretation of Part IV), in the definition of “prison”, “or remand centre” is omitted.

110 In section 99(1) (general interpretation), at the appropriate place there is inserted—  
““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;”.

111 In Schedule 3 (reciprocal enforcement of certain orders)—  
(a) in paragraph 10—  
(i) in sub-paragraphs (2)(b) and (3)(c), for “probation committee” there is substituted “ local probation board ”,  
(ii) in sub-paragraph (3)(a), for “a probation officer assigned” there is substituted “ an officer of a local probation board assigned ”,  
(iii) in sub-paragraph (3)(d), for “probation centre” there is substituted “ community rehabilitation centre ”,

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- (b) in paragraph 11(4), for “4(1)(d), 5(1)(d)” there is substituted “ 4(1C)(d), 5(1C)(d) ”.

**Commencement Information**

**I29** Sch. 7 para. 111 partly in force; Sch. para. 111 not in force at Royal Assent see s. 80; Sch. 7 para. 111(a) in force at 1.4.2001 by [S.I. 2001/919](#), [art. 2\(f\)\(ii\)](#)

PROSPECTIVE

- 112 In Schedule 8 (amendments for treating persons aged 17 as young persons), paragraphs 2 and 6(3) are omitted.

PROSPECTIVE

- 113 In Schedule 12 (transitional provisions and savings), in paragraphs 15(4) and 16(3), “remand centre or” is omitted.

PROSPECTIVE

*Water Industry Act 1991 (c. 56)*

- 114 In Schedule 4A to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges), in paragraph 13(2)(a), for “young offender institution or remand centre” there is substituted “ or young offender institution ”.

PROSPECTIVE

*Prison Security Act 1992 (c. 25)*

- 115 In section 1(6) of the Prison Security Act 1992 (offence of prison mutiny), in the definition of “prison”, for “young offender institution or remand centre” there is substituted “ or young offender institution ”.

*Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)*

- 116 The Prisoners and Criminal Proceedings (Scotland) Act 1993 is amended as follows.
- 117 In section 15(5) (variation of supervised release order), for “probation officer” there is substituted “ officer of a local probation board ”.
- 118 In section 27(1) (interpretation of Part I), at the appropriate place there is inserted—  
 ““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;”.

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PROSPECTIVE

*Intelligence Services Act 1994 (c. 13)*

- 119 In section 5(3B)(b) of the Intelligence Services Act 1994 (warrants: general), after “twenty-one” there is inserted “ (eighteen in relation to England and Wales) ”.

*Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 120 The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- 121 In section 209(7) (supervised release orders), for “probation officer” there is substituted “ officer of a local probation board ”.
- 122 In section 228(2)(b) (probation orders), for “probation committee” there is substituted “ local probation board ”.
- 123 In section 234 (probation orders: persons residing in England and Wales)—
- (a) in subsection (2), for “probation order made” there is substituted “ community rehabilitation order made ”,
  - (b) in subsection (3)(c), for “probation committee” there is substituted “ local probation board ”,
  - (c) in subsection (4)(a), after “probation orders” there is inserted “ or, as the case may be, community rehabilitation orders ”,
  - (d) in subsection (5)(a), for “probation order” there is substituted “ community rehabilitation order ”,
  - (e) in subsection (5)(b), for “combination order” there is substituted “ community punishment and rehabilitation order ”,
  - (f) in subsection (10), for “probation orders” there is substituted “ community rehabilitation orders ”.
- 124 In section 242 (community service orders: persons residing in England and Wales)—
- (a) in subsection (1)(a)(ii), for “community service order” there is substituted “ community punishment order ”,
  - (b) in subsections (1)(a)(iii), (2)(b) and (3)(b), for “community service orders” there is substituted “ community punishment orders ”,
  - (c) in subsection (3)(b)—
    - (i) for “probation committee” there is substituted “ local probation board ”,
    - (ii) for “a probation officer” there is substituted “ an officer of the board ”.
- 125 In section 244 (community service orders: general provisions relating to persons living in England and Wales or Northern Ireland)—
- (a) for subsection (3) there is substituted—
    - “(3) Subject to the following provisions of this section—
      - (a) a community service order made or amended in the circumstances specified in section 242 shall be treated as if it were a community punishment order made in England and Wales and the legislation relating to community

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punishment orders which has effect in England and Wales shall apply accordingly; and

(b) a community service order made or amended in the circumstances specified in section 243 shall be treated as if it were a community service order made in Northern Ireland and the legislation relating to community service orders which has effect in Northern Ireland shall apply accordingly.”

(b) in subsections (4)(a) and (6), after “community service orders” there is inserted “ or, as the case may be, community punishment orders ”,

(c) in subsection (5), after “a community service order” there is inserted “ or, as the case may be, a community punishment order ”.

126 In section 307(1) (interpretation), at the appropriate place there is inserted—

““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000”.

*Education Act 1996 (c. 56)*

127 The Education Act 1996 is amended as follows.

128 In section 468 (school may be struck off for contravention of regulations about employment of teachers), at the end there is inserted—

“(2) Where the Secretary of State is satisfied that a person who is included (otherwise than provisionally) in the list kept under section 1 of the <sup>M148</sup>Protection of Children Act 1999 (individuals considered unsuitable to work with children) or is subject to an order under section 28 or 29 of the Criminal Justice and Court Services Act 2000 (disqualification from working with children)—

(a) is employed in a registered or provisionally registered school, or

(b) is the proprietor of such a school,

he may order that the school be struck off the register or (as the case may be) that the Registrar is not to register the school.”

**Marginal Citations**

M148 1999 c. 14.

129 After section 473 there is inserted—

**“473A Removal of disqualification: persons no longer unsuitable to work with children.**

(1) Subject to section 473B, a person to whom this section applies may make an application under this section to the Tribunal.

(2) This section applies to any person who is disqualified, by an order made under section 470 or 471 on the grounds that he is unsuitable to work with children—

(a) from being the proprietor of any independent school; or

(b) from being a teacher or other employee in any school.

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- (3) On an application under this section the Tribunal shall determine whether or not the individual shall continue to be subject to the order.
- (4) If the Tribunal is satisfied that the individual is no longer unsuitable to work with children, it shall direct that the order shall cease to have effect; otherwise it shall dismiss the application.
- (5) In this section and section 473B, “the Tribunal” means the tribunal established by section 9 of the <sup>M149</sup>Protection of Children Act 1999.

#### **473B Conditions for application under section 473A.**

- (1) A person may only make an application under section 473A with the leave of the Tribunal.
- (2) An application for leave under this section may not be made unless the appropriate conditions are satisfied in the person’s case.
- (3) In the case of a person who was a child when the order was made, the appropriate conditions are satisfied if—
  - (a) at least five years have elapsed since the order was made; and
  - (b) in the period of five years ending with the time when he makes the application under this section, he has made no other such application.
- (4) In the case of any other person, the appropriate conditions are satisfied if—
  - (a) at least ten years have elapsed since the order was made; and
  - (b) in the period of ten years ending with the time when he makes the application under this section, he has made no other such application.
- (5) The Tribunal shall not grant an application under this section unless it considers—
  - (a) that the person’s circumstances have changed since the order was made, or, as the case may be, since he last made an application under this section; and
  - (b) that the change is such that leave should be granted.”

**Marginal Citations**

**M149** 1999 c. 14.

- 130 In section 474 (removal of disqualification)—
- (a) at the end of subsection (1) there is inserted—

“But this subsection does not apply in relation to the disqualification of a person to whom section 473A applies.”,
  - (b) for the sidenote there is substituted “Removal of disqualification: other cases.”

*Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24))*

- 131 The Criminal Justice (Northern Ireland) Order 1996 is amended as follows.



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- 132 In Article 10(1A) (probation orders) as it has effect pursuant to paragraph 10(1) of Schedule 3 to the <sup>M150</sup>Criminal Justice Act 1991 (reciprocal enforcement of certain orders), for “probation committee” there is substituted “ local probation board ”.

**Marginal Citations**

**M150** 1991 c. 53.

- 133 In Article 13(4)(b) (community service orders in respect of convicted persons) as it has effect pursuant to paragraph 7(1) of Schedule 13 to the <sup>M151</sup>Criminal Justice Act 1982 (reciprocal arrangements), for “such orders” there is substituted “ community punishment orders ”.

**Marginal Citations**

**M151** 1982 c. 48.

PROSPECTIVE

*Sexual Offences (Protected Material) Act 1997 (c. 39)*

- 134 In section 2(1) of the Sexual Offences (Protected Material) Act 1997 (meaning of other expressions), in the definition of “prison”, for “young offender institution or remand centre” there is substituted “ or young offender institution ”.

*Crime (Sentences) Act 1997 (c. 43)*

- 135 The Crime (Sentences) Act 1997 is amended as follows.
- 136 In section 28 (duty to release certain life prisoners)—
- (a) for the words from the beginning to the end of subsection (5)(a) there is substituted—
- “(1A) In this Chapter—
- (a) references to a life prisoner to whom this section applies are references to a life prisoner in respect of whom an order has been made under subsection (2) of section 82A of the <sup>M152</sup>Powers of Criminal Courts (Sentencing) Act 2000 or a direction under subsection (5) of that section has been given or will be required to be given at the appropriate stage; and
- (b) references to the relevant part of his sentence are references to the part of his sentence specified in the order or direction or, in the case of a life prisoner in respect of whom a direction under subsection (5) of that section has not been given but will be required to be given at the appropriate stage, the whole of his sentence,
- and in this section “appropriate stage”, in relation to such a direction, has the same meaning as in subsection (6) of that section.



*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*

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- (1B) But if a life prisoner is serving two or more life sentences—
- (a) he is not to be treated for the purposes of this Chapter as a life prisoner to whom this section applies unless such an order or direction has been made or given in respect of each of those sentences or such a direction will be required to be given at the appropriate stage; and
  - (b) the provisions of subsections (5) to (8) below do not apply in relation to him until he has served the relevant part of each of them.
- (5) As soon as—
- (a) a life prisoner to whom this section applies has served the relevant part of his sentence”,
  - (b) subsection (9) is omitted.

**Marginal Citations**

M152 2000 c. 6.

- 137 In section 33 (life prisoners transferred to England and Wales)—
- (a) for “section 28” (in subsections (1) and (2)) there is substituted “ the provisions of section 28(5) to (8) ”,
  - (b) in subsection (5), for “subsections (5) and (7) of section 28” there is substituted “ the provisions of section 28(5) to (8) ”.
- 138 In section 34(1) (interpretation), the words following the first mention of “sentences” are omitted.

PROSPECTIVE

F48 139

**Textual Amendments**

**F48** Sch. 7 para. 139 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t) (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))

PROSPECTIVE

F49 140

**Textual Amendments**

**F49** Sch. 7 para. 140 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122,

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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))

- 141 In section 54(1) (general interpretation), at the appropriate place there is inserted—
- ““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;”.
- 142 In section 57(8) (extent), at the end there is inserted—
- “or the extent of Chapter II of Part II so far as it relates to sentences passed by a court-martial
- ,”
- and Chapter II of Part II of that Act is to be treated as always having had effect as amended by this paragraph.
- 143 In Schedule 1 (transfer of prisoners within the British Islands), in each of paragraphs 8(5) and 11(6), in the table, for “Probation officer” there is substituted “ Officer of a local probation board ”.
- 144 In Schedule 5 (transitional provisions and savings), paragraph 5(1) is omitted.
- 145 Paragraphs 135 to 138 and 144 above have effect in relation to life sentences passed after commencement.
- 146 Paragraph 147 below applies where a person serving any life sentence passed after commencement—
- (a) is also serving a life sentence passed before commencement, or
  - (b) by reason of any sentence passed before commencement, is a transferred life prisoner within the meaning of section 33,
- and the sentences referred to in paragraphs (a) and (b) are referred to in paragraph 147 below as pre-commencement life sentences.
- 147 Section 28(1B) is to have effect as if—
- (a) any reference to a life sentence included a pre-commencement life sentence,
  - (b) any reference to an order or direction in relation to such a life sentence were to—
    - (i) an order under section 28(2)(b) or a direction under section 28(4) (as originally enacted), or
    - (ii) a certificate under section 33,
  - (c) any reference to the relevant part of such a life sentence were to the part specified in the order, direction or certificate (as the case may be) relating to that sentence.
- 148 In paragraphs 145 and 146 above, “commencement” means the coming into force of section 60 of this Act and “life sentence” has the same meaning as in Chapter II of Part II of that Act.

*Status:* Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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)

PROSPECTIVE

*Police Act 1997 (c. 50)*

- 149 In section 93(4)(b) of the Police Act 1997 (authorisations to interfere with property etc.), after “twenty-one” there is inserted “ (eighteen in relation to England and Wales) ”.

*Crime and Disorder Act 1998 (c. 37)*

- 150 The Crime and Disorder Act 1998 is amended as follows.
- 151 In sections <sup>F50</sup> . . . 38(2)(b), 39(3)(b), 41(10), 42(3) and 115(2)(e), for “probation committee” there is substituted “ local probation board ”.

**Textual Amendments**

**F50** Words in Sch. 7 para. 151 repealed (1.10.2002) by 2002 c. 30, s. 107, Sch. 8; S.I. 2002/2306, art. 2(g)(iii)(i)

- 152 In section 117(1) (interpretation), after the definition of “guardian” there is inserted—
- ““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;”.
- 153 In Schedule 8 (minor and consequential amendments), paragraph 110 is omitted.

*Protection of Children Act 1999 (c. 14)*

- 154 The Protection of Children Act 1999 is amended as follows.
- 155 After section 4 there is inserted—

**“4A Applications for removal from list.**

- (1) Subject to section 4B below, an individual who is included in the list kept by the Secretary of State under section 1 above may make an application to the Tribunal under this section.
- (2) On an application under this section the Tribunal shall determine whether or not the individual should continue to be included in the list.
- (3) If the Tribunal is satisfied that the individual is no longer unsuitable to work with children it shall direct his removal from the list; otherwise it shall dismiss the application.

**4B Conditions for application under section 4A.**

- (1) An individual may only make an application under section 4A above with the leave of the Tribunal.
- (2) An application for leave under this section may not be made unless the appropriate conditions are satisfied in the individual’s case.

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*Status:* Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.  
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- (3) In the case of an individual who was a child when he was included (otherwise than provisionally) in the list, the appropriate conditions are satisfied if—
  - (a) he has been so included for a continuous period of at least five years; and
  - (b) in the period of five years ending with the time when he makes the application under this section, he has made no other such application.
- (4) In the case of any other individual, the appropriate conditions are satisfied if—
  - (a) he has been included (otherwise than provisionally) in the list for a continuous period of at least ten years; and
  - (b) in the period of ten years ending with the time when he makes the application under this section, he has made no other such application.
- (5) The Tribunal shall not grant an application under this section unless it considers—
  - (a) that the individual's circumstances have changed since he was included (otherwise than provisionally) in the list, or, as the case may be, since he last made an application under this section; and
  - (b) that the change is such that leave should be granted.

#### **4C Restoration to list.**

- (1) If it appears to a chief officer of police or a director of social services of a local authority that the conditions set out in subsection (2) below are satisfied in the case of an individual, the chief officer or (as the case may be) the director may apply to the High Court for an order under this section to be made in respect of the individual.
- (2) The conditions are that—
  - (a) the individual is no longer included in the list kept by the Secretary of State under section 1 above, and
  - (b) the individual has acted in such a way (whether before or after he ceased to be included in the list) as to give reasonable cause to believe that an order under this section is necessary to protect children in general, or any children in particular, from serious harm from him.
- (3) An application under this section may be made at any time after the individual ceased to be included in the list.
- (4) If the High Court is satisfied that the conditions set out in subsection (2) above are satisfied, it must order the restoration of the individual's inclusion in the list; otherwise it must dismiss the application.
- (5) Where an order is made under this section, section 4B above has effect with the following modifications—
  - (a) in subsection (3), the reference to the individual being a child when he was included in the list is to be read as a reference to his being a child when the order under this section was made,

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- (b) subsections (3)(a) and (4)(a) are to have effect as if at the end there were inserted “beginning with the making of the order under section 4C below”,
  - (c) in subsection (5)(a), the reference to the individual’s circumstances changing since he was included in the list is to be read as a reference to his circumstances changing since the order under this section was made.
- (6) For the purposes of this section an individual is no longer included in the list if a direction under section 4A(3) above has been given in respect of him and his inclusion in the list is not restored by virtue of an order under this section.
- (7) In this section, “local authority” has the same meaning as in the <sup>M153</sup>Education Act 1996.”

**Marginal Citations**

**M153** 1996 c. 56.

- 156 Section 6 (appeals against prohibition or restriction of employment) is omitted.
- 157 In section 9(2) (the Tribunal)—
- (a) in paragraph (a), after “4” there is inserted “, 4A or 4B ”,
  - (b) for paragraph (b) there is substituted—
    - “(b) on an appeal or determination under regulations made under section 218(6) of the 1988 Act;”,
  - (c) for the “or” before paragraph (d) there is substituted—
    - “(ca) on a determination under section 473A or 473B of the Education Act 1996;”,
  - (d) after paragraph (d) there is inserted “or
    - (e) on a determination under section 32 or 33 of the Criminal Justice and Court Services Act 2000.”
- 158 In section 12 (interpretation)—
- (a) in the definition of “child care position”, for paragraphs (a) to (c) there is substituted—
    - “(a) is a regulated position for the purposes of Part II of the Criminal Justice and Court Services Act 2000; but
    - (b) is not a position within subsection (3) below;”,
  - (b) in subsection (3)(b), for the words from “an independent” to the end there is substituted “ a school which is a children’s home for the purposes of the <sup>M154</sup>Care Standards Act 2000 ”.

**Marginal Citations**

**M154** 2000 c. 14.

- 159 In section 14 (extent etc.)—
- (a) in subsection (3), for “This Act, except section 8 and this section,” there is substituted “ Subject to subsections (4) and (5) below, this Act ”,
  - (b) after subsection (4) there is inserted—

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“(5) Section 9 above and the Schedule to this Act extend to the whole of the United Kingdom.”

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

160 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.

161 In section 33(1) (meaning of “community order”)—

- (a) after paragraph (a) there is inserted—  
“aa) an exclusion order”,
- (b) after paragraph (e) there is inserted—  
“ee) a drug abstinence order”.

**Commencement Information**

**I30** Sch. 7 para. 161 partly in force at 2.7.2001; Sch. 7 para. 161 not in force at Royal Assent see s. 80; Sch. 7 para. 161(b) in force for specified purposes at 20.6.2001 and insofar as not already in force at 2.7.2001 by S.I. 2001/2232, **art. 2(m)(iii)**

**I31** Sch. 7 para. 161(a) in force at 2.9.2004 by S.I. 2004/2171, **art. 2**

162 In section 37(10)(a) (curfew orders), for “section 38 below” there is substituted “section 36B above”.

**Commencement Information**

**I32** Sch. 7 para. 162 wholly in force at 2.7.2001; Sch. 7 para. 162 not in force at Royal Assent see s. 80; Sch. 7 para. 162 in force for specified purposes at 20.6.2001 and insofar as not already in force at 2.7.2001 by S.I. 2001/2232, **art. 2(m)(v)**

163 Section 38 (electronic monitoring of curfew orders) is omitted.

**Commencement Information**

**I33** Sch. 7 para. 163 wholly in force at 2.7.2001; Sch. 7 para. 163 not in force at Royal Assent see s. 80; Sch. 7 para. 163 in force for specified purposes at 20.6.2001 and insofar as not already in force at 2.7.2001 by S.I. 2001/2232, **art. 2(m)(iv)**

164 In section 40 (curfew orders: supplementary)—

- (a) in subsection (1)(a), the words from “(including” to “available)” are omitted,
- (b) after subsection (2) there is inserted—  
“(3) An order under subsection (2)(a) above may make in paragraphs 2A(4) and (5) and 19(3) of Schedule 3 to this Act any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.”

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**Commencement Information**

**I34** Sch. 7 para. 164 partly in force; Sch. 7 para. 164 not in force at Royal Assent see s. 80; Sch. 7 para. 164 in force for specified purposes at 20.6.2001 and for other specified purposes at 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(m\)\(v\)](#)

PROSPECTIVE

<sup>F51</sup>165 .....

**Textual Amendments**

**F51** Sch. 7 paras. 165-172 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 44\(4\)\(t\)](#) (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\(l\)](#))

166 In section 42(1) (additional requirements which may be included in probation orders), for “probation period” there is substituted “ community rehabilitation period ”.

PROSPECTIVE

<sup>F51</sup>167 .....

**Textual Amendments**

**F51** Sch. 7 paras. 165-172 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 44\(4\)\(t\)](#) (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\(l\)](#))

168 In section 46(13) (community service orders), “(a) or (b)” is omitted.  
169 In section 47 (obligations of person subject to community service order)—  
(a) in subsection (4), for paragraphs (a) and (b) there is substituted “ an officer of a local probation board appointed for or assigned to the petty sessions area specified in the order ”,  
(b) in subsection (5)(a), “(a) or (b)” is omitted.

PROSPECTIVE

<sup>F51</sup>170 .....

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*  
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**Textual Amendments**

**F51** Sch. 7 paras. 165-172 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (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))

- 171 In section 57 (copies of orders)—
- (a) in subsection (2), after “order shall” there is inserted “ (subject to subsection (3A) below) ”,
  - (b) after subsection (3) there is inserted—
    - “(3A) Where—
    - (a) a magistrates’ court amends a drug treatment and testing order under section 55(1) above; and
    - (b) the order as amended provides for a magistrates’ court other than that mentioned in paragraph (a) above to be responsible for the order;

the court amending the order shall not give copies of the order as amended as mentioned in subsection (2) above but shall forthwith send copies of it to the court responsible for the order and that court shall, as soon as reasonably practicable after the order is amended, give copies to an officer of a local probation board assigned to that court.”

PROSPECTIVE

**F51** 172 .....

**Textual Amendments**

**F51** Sch. 7 paras. 165-172 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (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))

PROSPECTIVE

- 173 In section 60(1)(b) (attendance centre orders), after “court” there is inserted “ has power or ”.
- 174 In section 64(2) (selection and duty of supervisor), the words from “and selected under arrangements” to the end of the subsection are omitted.
- 175 In section 66 (facilities for implementing supervision orders), in subsections (2), (9) and (12) (in both places), for “probation committee” there is substituted “ local probation board ”.



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PROSPECTIVE

No .....  
**commentary**  
**item**  
**could be**  
**found**  
**for this**  
**reference**  
**key-**  
**e2693836086e5922ed2910b803149889176**

PROSPECTIVE

No .....  
**commentary**  
**item**  
**could be**  
**found**  
**for this**  
**reference**  
**key-**  
**e2693836086e5922ed2910b803149889<sup>F52</sup>177**

**Textual Amendments**

**F52** Sch. 7 para. 177 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 7**; [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (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))

PROSPECTIVE

No .....  
**commentary**  
**item**  
**could be**  
**found**  
**for this**  
**reference**  
**key-**  
**e2693836086e5922ed2910b803149889178**

PROSPECTIVE

**F53**179 .....

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*  
**Changes to legislation:** Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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**

**F53** Sch. 7 para. 179 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(t\)](#) (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))

PROSPECTIVE

No  
 commentary  
 item  
 could be  
 found  
 for this  
 reference  
[key-171b7b7f3c2d34610d483129ca603285](#)180

PROSPECTIVE

No  
 commentary  
 item  
 could be  
 found  
 for this  
 reference  
[key-171b7b7f3c2d34610d483129ca603285](#)181

PROSPECTIVE

No  
 commentary  
 item  
 could be  
 found  
 for this  
 reference  
[key-171b7b7f3c2d34610d483129ca603285](#)182

PROSPECTIVE

183 In section 99 (conversion of sentence of detention or custody to sentence of imprisonment), subsection (2) is omitted.

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Criminal Justice and Court Services Act 2000 is up to date with all changes known to be in force on or before 08 July 2023. 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)*

PROSPECTIVE

No .....  
**commentary**  
**item**  
**could be**  
**found**  
**for this**  
**reference**  
**key-2d71776d853e9743a974f51998a8e9a9184**

PROSPECTIVE

No .....  
**commentary**  
**item**  
**could be**  
**found**  
**for this**  
**reference**  
**key-2d71776d853e9743a974f51998a8e9a9185**

PROSPECTIVE

No .....  
**commentary**  
**item**  
**could be**  
**found**  
**for this**  
**reference**  
**key-2d71776d853e9743a974f51998a8e9a9186**

PROSPECTIVE

No .....  
**commentary**  
**item**  
**could be**  
**found**  
**for this**  
**reference**  
**key-2d71776d853e9743a974f51998a8e9a9187**

PROSPECTIVE

188 Section 108 (detention of persons aged at least 18 but under 21 for default or contempt) is omitted.

*Status: Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.*  
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PROSPECTIVE

F54 189 .....

**Textual Amendments**  
F54 Sch. 7 para. 189 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t) (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))

PROSPECTIVE

F55 190 .....

**Textual Amendments**  
F55 Sch. 7 para. 190 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

PROSPECTIVE

F56 191 .....

**Textual Amendments**  
F56 Sch. 7 para. 191 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

PROSPECTIVE

F57 192 .....

**Textual Amendments**  
F57 Sch. 7 para. 192 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 28 Pt. 1 (with Sch. 27 paras. 1, 5); S.I. 2009/3074, art. 2(u)(xxix)

PROSPECTIVE

193 In section 139 (powers and duties of Crown Court in relation to fines and forfeited recognizances)—

*Status:* Point in time view as at 07/03/2005. This version of this Act contains provisions that are prospective.  
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- (a) in subsection (2), “or of detention under section 108 above (detention of persons aged 18 to 20 for default)” is omitted,
- (b) in subsection (3), “or detained” is omitted,
- (c) in subsection (3)(c), “custody for life or detention in a young offender institution” is omitted,
- (d) in subsection (4), “or detention” is omitted,
- (e) in subsection (5), the second “or detention” is omitted.

PROSPECTIVE

- 194 In section 140(3) (enforcement of fines imposed and recognizances forfeited by Crown Court), “or detention under section 108 above” is omitted.
- 195 For the sidenote to section 157 (other reports of probation officers and members of youth offending teams), there is substituted “ Other reports of officers of local probation boards and members of youth offending teams ”.
- 196 In section 160 (rules and orders)—
- (a) in subsection (2)(a), for the words from “40(1)” to “Schedule 2” there is substituted “ 36B(6), 40(1), 40C(1), 42(2E), 58A(8) or 162 or paragraph 3, 7, or 8 of Schedule 2 ”,
  - (b) in subsection (2)(b), for the words from “40(2)” to the end there is substituted “ 40(2)(b), 40C(2), 68, 122(7) or 156(4) or paragraph 7(9) or 8(8) of Schedule 2 ”,
  - (c) in subsection (3)(a)—
    - (i) after “15(1)” there is inserted “ 40(2)(a) ”,
    - (ii) after “58” there is inserted “ 58A(4) ”,
    - (iii) for “or 103(2)” there is substituted “ 103(2) or paragraph 1(1A) of Schedule 3 ”,
  - (d) for subsection (5) there is substituted—

“(5) The following may make different provision for different cases or classes of case—

    - (a) any order under section 36B(5), 37(6), 40(2), 40A(6) or 40C(2) or paragraph 7 or 8 of Schedule 2;
    - (b) any rules under section 36B, 40(1), 40C(1), 42(2E), 47(3C), 58A(8) or 162 or paragraph 7 or 8 of Schedule 2.”

**Commencement Information**

- I35** Sch. 7 para. 196 partly in force; Sch. 7 para. 196 not in force at Royal Assent see s. 80; Sch. 7 para. 196 in force for specified purposes at 20.6.2001 and in force for other specified purposes at 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(m\)\(vi\)](#)
- I36** Sch. 7 para. 196(a)(b)(d) in force at 2.9.2004 for specified purposes by [S.I. 2004/2171](#), [art. 2](#)
- I37** Sch. 7 para. 196(c)(i)(ii) in force at 2.9.2004 in so far as not already in force by [S.I. 2004/2171](#), [art. 2](#)

- 197 In section 163 (general definitions)—
- (a) in the definition of “attendance centre order”, for “4(1)(c) or 5(1)(c)” there is substituted “ 4(1C)(c) or 5(1C)(c) ”,

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- (b) the definitions of “combination order”, “probation order” and “probation period” are omitted,
- (c) in the definition of “community punishment order”, for “4(1)(b) or 5(1)(b)” there is substituted “ 4(1C)(b) or 5(1C)(b) ”,
- (d) in the definition of “curfew order”, after “59 above” there is inserted “ or paragraph 6A of Schedule 3 to this Act ” and after “section 59” (in the second place) there is inserted “ or paragraph 4(1C)(a) of Schedule 3 ”,
- (e) at the end of the definition of “custodial sentence” there is inserted “ and, in relation to sentences passed before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, includes a sentence of custody for life and a sentence of detention in a young offender institution ”,
- (f) at the appropriate places there are inserted—

““affected person”—

- (a) in relation to an exclusion order, has the meaning given by section 40A(13) above;
- (b) in relation to a community rehabilitation order, has the meaning given by section 41(12) above; and
- (c) in relation to a community punishment and rehabilitation order, has (by virtue of section 51(4) above), the meaning given by section 41(12) above”,

““community rehabilitation period” means the period for which a person subject to a community rehabilitation or community punishment and rehabilitation order is placed under supervision by the order”,

““drug abstinence order” means an order under section 58A(1) above”,

““exclusion order” means an order under section 40A(1) above”,

““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000”,

- (g) in the definition of “responsible officer”—
  - (i) after paragraph (a) there is inserted—
    - “(aa) in relation to an exclusion order, has the meaning given by section 40A(14) above”,
  - (ii) after paragraph (e) there is inserted—
    - “(ee) in relation to a drug abstinence order, has the meaning given by section 58A(5) above”.

#### Commencement Information

**I38** Sch. 7 para. 197 partly in force; Sch. 7 para. 197 not in force at Royal Assent see s. 80; Sch. 7 para. 197(b) in force and Sch. 7 para. 197(f) in force for specified purposes at 1.4.2001 by [S.I. 2001/919](#), [art. 2\(f\)\(iii\)](#); Sch. 7 para. 197(f) in force for specified purposes at 20.6.2001 and 2.7.2001 and Sch. 7 para. 197(g)(ii) in force for specified purposes at 20.6.2001 and in force insofar as not already in force at 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(m\)\(vii\)](#)

**I39** Sch. 7 para. 197(f) in force at 2.9.2004 for specified purposes by [S.I. 2004/2171](#), [art. 2](#)

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**I40** Sch. 7 para. 197(g)(i) in force at 2.9.2004 by S.I. 2004/2171, art. 2

- 198 (1) Schedule 2 (additional requirements which may be included in probation orders) is amended as follows.
- (2) In paragraphs 2(1)(b)(ii), 3(1), 5(2) and 6(3), for “probation period” there is substituted “community rehabilitation period”.
- (3) In paragraph 2(5), for “probation committee” there is substituted “local probation board”.
- (4) In paragraph 3—
- (a) in sub-paragraphs (1), (6) and (8), for “probation centre” there is substituted “community rehabilitation centre”,
- (b) in sub-paragraph (7), for “probation centres” there is substituted “community rehabilitation centres”,
- (c) for the cross-heading preceding paragraph 3 there is substituted “Requirements as to attendance at community rehabilitation centres”.
- (5) For the heading to the Schedule there is substituted “Additional requirements which may be included in community rehabilitation orders”.
- 199 (1) Schedule 3 (breach, revocation and amendment of curfew, probation, community service, combination and drug treatment and testing orders) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (1)—
- (i) after paragraph (a) there is inserted—  
“aa) an exclusion order;”
- (ii) after paragraph (e) there is inserted—  
“(f) a drug abstinence order.”
- (b) in sub-paragraph (2)(b), for “a probation, community service, combination or drug treatment and testing” there is substituted “an exclusion, community rehabilitation, community punishment, community punishment and rehabilitation, drug treatment and testing or drug abstinence”,
- (c) in sub-paragraph (3)—
- (i) after “order” there is inserted “or drug abstinence order”,
- (ii) at the end there is inserted “(or that subsection as applied by section 58B(2) of this Act)”.
- (3) In paragraphs 1(4)(a), 18(4), 19(1) (in each place) and 19(2), for “probation element” there is substituted “community rehabilitation element”.
- (4) In paragraphs 1(4)(b) and 7(3)(b)(ii), for “community service element” there is substituted “community punishment element”.
- (5) In paragraph 2(1), for “probation, community service or combination” there is substituted “exclusion, community rehabilitation, community punishment, community punishment and rehabilitation or drug abstinence”.
- (6) In paragraph 3(2)—
- (a) in paragraph (a), after “testing order” there is inserted “or a drug abstinence order”,

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(b) in paragraph (c), after “testing order” there is inserted “ a drug abstinence order ”.

(7) In paragraph 4—

- (a) in sub-paragraph (2), for “(1)(d)” there is substituted “ (1C)(d) ”,
- (b) in sub-paragraph (3), for “sub-paragraph (1)(d)” there is substituted “ sub-paragraph (1A) or (1C)(d) ”,
- (c) in sub-paragraph (4), for “(1)(a)” there is substituted “ (1C)(a) ”,
- (d) in sub-paragraph (6), for “sub-paragraph (1)(d)” there is substituted “ sub-paragraph (1A) or (1C)(d) ”.

(8) In paragraph 5—

- (a) in sub-paragraph (2), for “(1)(d)” there is substituted “ (1C)(d) ”,
- (b) in sub-paragraph (3), for “sub-paragraph (1)(d)” there is substituted “ sub-paragraph (1A) or (1C)(d) ”.

(9) After paragraph 6 there is inserted—

*“ Curfew orders imposed for breach of relevant order*

6A (1) Section 37(1) of this Act (curfew orders) shall apply for the purposes of paragraphs 4(1C)(a) and 5(1C)(a) above as if for the words from the beginning to “make” there were substituted “Where a court has power to deal with an offender under Part II of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant order, the court may make in respect of the offender”.

(2) In this paragraph—

“secondary order” means a curfew order made by virtue of paragraph 4(1C)(a) or 5(1C)(a) above;

“original order” means the relevant order the failure to comply with which led to the making of the secondary order.

(3) A secondary order—

- (a) shall specify a period of not less than 14 nor more than 28 days for which the order is to be in force; and
- (b) may specify different places, or different periods (within the period for which the order is in force), for different days, but shall not specify periods which amount to less than two hours or more than twelve hours in any one day.

(4) Part IV of this Act, except sections 35, 36, 37(3) and (4), 39 and 40(2)(a), has effect in relation to a secondary order as it has effect in relation to any other curfew order, but subject to the further modifications made below.

(5) Section 37(9) applies as if the reference to an offender who on conviction is under 16 were a reference to a person who on the date when his failure to comply with the original order is proved to the court is under 16.

(6) Paragraphs 2A, 4(1A) to (2) and 5(1A) to (2) above and 10 and 11 below apply as if, in respect of the period for which the secondary order is in force, the requirements of that order were requirements of the original order.



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But in paragraphs 4 and 5 above, sub-paragraph (1C)(c) applies as if references to the relevant order were to the original order or the secondary order.

(7) In paragraphs 4 and 5 above, sub-paragraph (3) applies as if references to the relevant order were to the original order and the secondary order.

(8) Paragraph 19(3) below applies as if the reference to six months from the date of the original order were a reference to 28 days from the date of the secondary order.”

(10) In paragraph 7—

(a) in sub-paragraph (1), for “4(1)(b) and 5(1)(b)” there is substituted “ 4(1C)(b) and 5(1C)(b) ”,

(b) in sub-paragraph (2), for “4(1)(b) or 5(1)(b) above” there is substituted “ 4(1C)(b) or 5(1C)(b) and “original order” means the relevant order the failure to comply with which led to the making of the secondary order ”,

(c) for sub-paragraphs (4) to (6) there is substituted—

“4) Part IV of this Act, except sections 35, 36, 46(3) and (8) and 48 to 50, has effect in relation to a secondary order as it has effect in relation to any other community punishment order, but subject to the further modifications made below.

(5) Paragraphs 2A, 4(1A) to (3) and 5(1A) to (3) above and 10 and 11 below apply as if, in respect of the period for which the secondary order is in force, the requirements of that order were requirements of the original order.

But in paragraphs 4 and 5 above, sub-paragraph (1C)(c) applies as if references to the relevant order were to the original order or the secondary order.

(6) In paragraphs 4 and 5 above, sub-paragraph (3) applies as if references to the relevant order were to the original order and the secondary order.

(7) Paragraph 19(3) below applies as if the reference to six months from the date of the original order were a reference to 28 days from the date of the secondary order.”,

and for the cross-heading preceding the paragraph there is substituted “ Community punishment orders imposed for breach of relevant order ”.

(11) In paragraph 8—

(a) in sub-paragraph (1)—

(i) for “4(1)(c) and 5(1)(c)” there is substituted “ 4(1C)(c) and 5(1C)(c) ”,

(ii) for the words following “Where a court” there is substituted “ has power to deal with an offender under Part II of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant order, the court may ”,

(b) in sub-paragraph (2)—

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- (i) in paragraph (b), after “applicable” there is inserted “ section 36B and ”,
  - (ii) for “4(1)(c) or 5(1)(c)” there is substituted “ 4(1C)(c) or 5(1C)(c) ”,
  - (c) in sub-paragraph (3), for “4(1)(c) or 5(1)(c)” there is substituted “ 4(1C)(c) or 5(1C)(c) ”.
- (12) In paragraph 9—
- (a) in sub-paragraph (1), for “4(1)(a), (b) or (c) or 5(1)(a), (b) or (c)” there is substituted “ 4(1C)(a), (b) or (c) or 5(1C)(a), (b) or (c) ”,
  - (b) sub-paragraph (2) is omitted,
  - (c) in sub-paragraph (3), for “4(1)(d)” there is substituted “ 4(1C)(d) ”.
- (13) In paragraphs 10(2)(a) and 13(2)(a), after “testing order” there is inserted “ or a drug abstinence order ”.
- (14) In paragraphs 10(4) and 11(3), for “probation, combination” there is substituted “ community rehabilitation, community punishment and rehabilitation ”.
- (15) In paragraph 12(1), for “probation order or combination” there is substituted “ community rehabilitation order or community punishment and rehabilitation ”.
- (16) In paragraphs 12(1)(b), 12(2)(a) and (b), 12(4)(a) (in both places), 12(4)(b), 12(7) and 20(1), for “probation or combination” there is substituted “ community rehabilitation or community punishment and rehabilitation ”.
- (17) In paragraphs 12(4)(b) and 19(2)(a), for “probation period” there is substituted “ community rehabilitation period ”.
- (18) For the cross-heading preceding paragraph 12 there is substituted “ Substitution of conditional discharge for community rehabilitation or community punishment and rehabilitation order ”.
- (19) In paragraphs 16 and 21(7), for “4(1)(d)” there is substituted “ 4(1C)(d) ”.
- (20) In paragraph 18—
- (a) in sub-paragraph (3), for “probation” there is substituted “ community rehabilitation ”,
  - (b) in sub-paragraph (6)(a), for “probation, community service or combination” there is substituted “ community rehabilitation, community punishment or community punishment and rehabilitation ”.
- (21) In paragraph 19—
- (a) in sub-paragraph (1)—
    - (i) for “sub-paragraphs (2) and (3) below” there is substituted “ the following provisions of this paragraph ”,
    - (ii) for “the offender or the responsible officer,” there is substituted “ an eligible person, ”
    - (iii) for “probation or curfew” (in each place) there is substituted “ community rehabilitation, curfew or exclusion ”,
  - (b) in sub-paragraph (2), after paragraph (a) there is inserted—
    - “(aa) by extending any curfew periods specified in a requirement under the order beyond the end of six months from the date of the original order;

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- (ab) by extending the period during which the offender is prohibited from entering a place specified in a requirement under the order beyond the end of two years from the date of the original order;”,
- (c) in sub-paragraph (3), after “six months” there is inserted “ (or, for an offender aged under 16 on conviction, three months) ”,
- (d) after sub-paragraph (3) there is inserted—
  - “(4) A magistrates’ court shall not under sub-paragraph (1) above amend an exclusion order by extending the period for which the offender is prohibited from entering the place in question beyond the end of two years (or, for an offender aged under 16 on conviction, three months) from the date of the original order.
- (5) For the purposes of this paragraph the eligible persons are—
  - (a) the offender;
  - (b) the responsible officer; and
  - (c) in relation to an exclusion order, a community rehabilitation order or a community punishment and rehabilitation order, any affected person.

But an application under sub-paragraph (1) above by a person such as is mentioned in paragraph (c) above must be for the cancellation of a requirement which was included in the order by virtue of his consent or for the purpose (or partly for the purpose) of protecting him from being approached by the offender, or for the insertion of a requirement which will, if inserted, be such a requirement.
- (6) Without prejudice to the provisions of paragraph 18 above, a magistrates’ court acting for the petty sessions area concerned may, on the application of the offender or the responsible officer, by order amend a drug abstinence order by extending the period for which the order has effect (but not beyond the end of three years from the date of the original order).”
- (e) for the cross-heading preceding paragraph 19 there is substituted “ Amendment of requirements of community rehabilitation, community punishment and rehabilitation, curfew or exclusion order. ”
- (22) For the cross-heading preceding paragraph 20 there is substituted “ Amendment of treatment requirements of community rehabilitation or community punishment and rehabilitation order on report of practitioner ”.
- (23) For the cross-heading preceding paragraph 22 there is substituted “ Extension of community punishment or community punishment and rehabilitation order ”.
- (24) In paragraph 24(2), after “requirement, or” there is inserted “ to an order under paragraph 18 above ”.
- (25) In paragraph 25—
  - (a) in sub-paragraph (1)(a), after “substituting” there is inserted “ , by virtue of paragraph 18 above, ”,
  - (b) sub-paragraph (2) is omitted,
  - (c) in sub-paragraph (3), “or (2)” is omitted.

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(26) After paragraph 25 there is inserted—

“26 (1) On the making under this Part of this Schedule of an order amending a drug treatment and testing order, the proper officer of the court shall (subject to sub-paragraph (3) below) forthwith give copies of the amending order to the responsible officer.

(2) In sub-paragraph (1) above, “proper officer” means—

- (a) in relation to a magistrates’ court, the justices’ chief executive for the court; and
- (b) in relation to the Crown Court, the appropriate officer.

(3) Where—

- (a) a magistrates’ court amends a drug treatment and testing order under this Part of this Schedule; and
- (b) the amending order provides for a magistrates’ court other than that mentioned in paragraph (a) above to be responsible for the order;

the court amending the order shall not give copies of the amending order as mentioned in sub-paragraph (1) above but shall send copies to the court responsible for the order and the justices’ chief executive for that court shall forthwith give copies of the amending order to the responsible officer.

(4) A responsible officer to whom in accordance with sub-paragraph (1) or (3) above copies of an order are given shall give a copy to the offender and to the treatment provider.”

(27) For the heading to the Schedule there is substituted “ Breach, revocation and amendment of certain community orders ”.

#### Commencement Information

- I41** Sch. 7 para. 199 partly in force; Sch. 7 para. 199 not in force at Royal Assent see s. 80; Sch. 7 para. 199; Sch. 7 para. 199(1)(3)(4)(14)-(18)(20)(22)(23)(27) in force at 1.4.2001 by [S.I. 2001/919](#), [art. 2\(f\)\(iv\)](#); Sch. 7 para. 199(2)(b)(5)(10)(21)(a)(iii)(e) in force for specified purposes at 1.4.2001 by [S.I. 2001/919](#), [art. 2\(f\)\(iv\)](#); Sch. 7 para. 199(2)(c)(6)(11)(b)(i)(13)(21)(c)(24)(25)(a) in force for specified purposes at 20.6.2001 and insofar as not already in force at 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(m\)\(viii\)](#); Sch. 7 para. 199(2)(a)(b)(5)(21)(b)(d) in force for specified purposes at 20.6.2001 and in force for other specified purposes at 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(m\)\(viii\)](#)
- I42** Sch. 7 para. 199(2)(a)(b)(5)(21)(b)(d)(e) in force at 2.9.2004 in so far as not already in force by [S.I. 2004/2171](#), [art. 2](#)
- I43** Sch. 7 para. 199(21)(a)(i)(ii) in force at 2.9.2004 by [S.I. 2004/2171](#), [art. 2](#)

200 (1) Schedule 4 (transfer of certain community orders to Scotland or Northern Ireland) is amended as follows.

(2) In paragraphs 1(3) and 2(3)—

- (a) in paragraph (c), for “probation committee” there is substituted “ local probation board ”,
- (b) in paragraph (d), for “probation centre” there is substituted “ community rehabilitation centre ”.

(3) In paragraph 6—

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- (a) in sub-paragraph (8), for the definition of “corresponding order” there is substituted—

““corresponding order”—

- (a) in relation to a community rehabilitation order, means a probation order;
- (b) in relation to a community punishment order, means a community service order; and
- (c) in relation to a community punishment and rehabilitation order—
- (i) if the offender resides in Scotland, or will be residing there at the relevant time, means a probation order including such a requirement as is mentioned in section 229(4) of the <sup>M155</sup>Criminal Procedure (Scotland) Act 1995; and
- (ii) if he resides in Northern Ireland, or will be residing there at the relevant time, means a combination order;”
- (b) for the cross-heading preceding paragraph 6 there is substituted “ Community rehabilitation, community punishment and community punishment and rehabilitation orders: general provisions ”.

#### Marginal Citations

M155 1995 c. 46.

- 201 (1) Schedule 7 (breach, revocation and amendment of supervision orders) is amended as follows.
- (2) In paragraph 3—
- (a) in sub-paragraph (2)(b), for “sections 38” there is substituted “ sections 36B ”,
- (b) in sub-paragraph (5)(a), for “4(1)(d)” there is substituted “ 4(1C)(d) ”.
- (3) In paragraph 7(7)—
- (a) paragraph (a) is omitted,
- (b) in paragraph (b), “if the justice or youth court has not been so notified” is omitted.

#### Commencement Information

**I44** Sch. 7 para. 201 partly in force; Sch. 7 para. 201 not in force at Royal Assent see s. 80; Sch. 7 para. 201(1)(2)(a) in force for specified purposes at 20.6.2001 and insofar as not already in force at 2.7.2001 by S.I. 2001/2232, art. 2(m)(ix)

- 202 (1) Schedule 8 (breach, revocation and amendment of action plan orders and reparation orders) is amended as follows.
- (2) In paragraph 3—
- (a) in sub-paragraph (2)(b), for “sections 38” there is substituted “ sections 36B ”,

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- (b) in sub-paragraph (5)(a), for “4(1)(d)” there is substituted “ 4(1C)(d) ”.
- (3) In paragraph 6(7)—
  - (a) paragraph (a) is omitted,
  - (b) in paragraph (b), “if it has not been so notified” is omitted.

**Commencement Information**  
**I45** Sch. 7 para. 202 partly in force; Sch. 7 para. 202 not in force at Royal Assent see s. 80; Sch. 7 para. 202(1)(2)(a) in force for specified purposes at 20.6.2001 and insofar as not already in force at 2.7.2001 by [S.I. 2001/2232](#), [art. 2\(m\)\(x\)](#)

- 203 (1) Schedule 9 (consequential amendments) is amended as follows.
  - (2) Paragraphs 5(3), 9, 10, 12, 14, 15, 17, 19, 20, 22, 34(a), 56, 57, 66, 68, 70, 77, 78, 111(4), 143(b), 152 to 156 and 166(3) are omitted.
  - (3) Paragraphs 182 and 188 are omitted.
  - (4) Sub-paragraph (3) has effect in relation to sentences passed after the coming into force of section 60.
  - (5) In paragraph 183, sub-paragraph (2)(b) and the preceding “and”, and sub-paragraphs (3)(b) and (3)(c), are omitted.

**Commencement Information**  
**I46** Sch. 7 para. 203 partly in force; Sch. 7 para. 203(3)(4) in force at Royal Assent see s. 80(3)(d); Sch. 7 para. 203(1) in force and Sch. 7 para. 203(2) in force for specified purposes at 1.4.2001 by [S.I. 2001/919](#), [art. 2\(f\)\(v\)\(vi\)](#)

PROSPECTIVE

**F58** 204 .....

**Textual Amendments**  
**F58** Sch. 7 para. 204 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074](#), [art. 2\(u\)\(xxix\)](#)

*Child Support, Pensions and Social Security Act 2000 (c. 19)*

- 205 The Child Support, Pensions and Social Security Act 2000 is amended as follows.
- 206 In section 62 (loss of benefit for breach of community order)—
  - (a) in subsection (8), in the definition of “relevant community order”, for paragraphs (a) to (c) there is substituted—
    - “(a) a community punishment order;
    - (b) a community rehabilitation order;
    - (c) a community punishment and rehabilitation order;”

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- (b) for subsection (11)(c)(ii) there is substituted—
- “(ii) in the definition of “relevant community order”,  
for paragraphs (a) to (e) substitute—
- “(“ a community service order;  
(b) a probation order;  
(c) such other description of order made under the  
<sup>M156</sup>Criminal Procedure (Scotland) Act 1995 as may be  
prescribed for the purposes of this section; or  
(d) any order falling in Scotland to be treated as an order  
specified in paragraphs (a) to (c) ”.””

**Marginal Citations**

M156 1995 c. 46.

- 207 In section 64 (information provision)—
- (a) in subsection (2), for “Chief Probation Officer for any area in England and Wales” there is substituted “ chief officer of a local probation board ”,
- (b) in subsections (2)(a) and (7)(c), for “a person employed or appointed by a probation committee” there is substituted “ an officer of a local probation board ”,
- (c) at the end of subsection (10) there is inserted “ and “local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 ”.

*Learning and Skills Act 2000 (c. 21)*

- 208 The Learning and Skills Act 2000 is amended as follows.
- 209 In sections 115(1)(e) (consultation and coordination) and 120(2)(e) (information: supply by public bodies), for “probation committee” there is substituted “ local probation board ”.
- 210 In section 121(1) (supplementary), after the definition of “local authority” there is inserted—
- ““local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000,”
- and the definition of “probation committee” is omitted.

PROSPECTIVE

*Regulation of Investigatory Powers Act 2000 (c. 23)*

- 211 In section 81(3)(a) of the Regulation of Investigatory Powers Act 2000 (general interpretation), after “twenty-one” there is inserted “ (eighteen in relation to England and Wales) ”.

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## SCHEDULE 8

Section 75.

## REPEALS

**Commencement Information**

**I47** Sch. 8 partly in force; Sch. 8 in force at Royal Assent for specified repeals see s. 80(3)(e); Sch. 8 in force for specified purposes at 11.1.2001 by S.I. 2000/3302, art. 2; Sch. 8 in force for further specified purposes at 1.4.2001 by S.I. 2001/919, art. 2(g); Sch. 8 in force (E.W.) for specified purposes at 20.6.2001 and in force (E.W.) for other specified purposes at 2.7.2001 by s.I. 2001/2232, art. 2(n)

Chapter	Short title	Extent of repeal
1948 c. 58.	Criminal Justice Act 1948.	In section 27, in subsection (1), the words from “then, if the court” to “not been so notified”, and subsection (2). In section 39(3), “or remand centre”. In section 80(1), the definitions of “local authority” and “remand centre”.
1952 c. 52.	Prison Act 1952.	In section 37(4), “remand centre”. In section 43, subsection (1) (a), in subsection (2), in paragraph (a) “a remand centre or” and paragraphs (b) and (c), subsection (3), in subsection (4), “remand centres” and subsection (7). In section 47, in subsection (1), “remand centres” and, in subsection (5), “remand centre”.
1955 c. 18.	Army Act 1955.	In section 71A, subsections (1A) to (1C), in subsection (1D), paragraph (b) and the “and” preceding it, in subsection (1E), paragraph (b) and the “or” preceding it and, in subsection (5), “custody for life or” and “and to a sentence of custody for life”. In section 71AA(1AA), “aged 17”.



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1955 c. 19.

Air Force Act 1955.

In section 71AB(1), paragraph (b) and the “or” preceding it.

In Schedule 5A, in paragraph 10(1A), “under 18 years of age” and, in paragraph 15(3), in the second column of the table, “Custody for life”.

In section 71A, subsections (1A) to (1C), in subsection (1D), paragraph (b) and the “and” preceding it, in subsection (1E), paragraph (b) and the “or” preceding it and, in subsection (5), “custody for life or” and “and to a sentence of custody for life”.  
In section 71AA(1AA), “aged 17”.

In section 71AB(1), paragraph (b) and the “or” preceding it.

In Schedule 5A, in paragraph 10(1A), “under 18 years of age” and, in paragraph 15(3), in the second column of the table, “Custody for life”.

1957 c. 53.

Naval Discipline Act 1957.

In section 43A, subsections (1A) to (1C), in subsection (1D), paragraph (b) and the “and” preceding it, in subsection (1E), paragraph (b) and the “or” preceding it and, in subsection (5), “custody for life or” and “and to a sentence of custody for life”.  
In section 43AA(1AA), “aged 17”.

In section 43AB(1), paragraph (b) and the “or” preceding it.

In Schedule 4A, in paragraph 10(1A), “under 18 years of age” and, in paragraph 15(3), in the second column of the table, “Custody for life”.

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1959 c. 45.	Metropolitan Magistrates' Courts Act 1959.	Section 3. In section 4(2), "of the probation system within the inner London probation area".
1967 c. 80.	Criminal Justice Act 1967.	In section 67(6), "to a remand centre or".
1968 c. 27.	Firearms Act 1968.	In section 52(1)(a), "in a young offender institution or".
1969 c. 54.	Children and Young Persons Act 1969.	In section 23 (as it has effect pursuant to section 98(2) of the Crime and Disorder Act 1998), in subsection (1), "a remand centre or", subsection (4) (b), in subsection (5), "remand centre or" and, in subsection (5A), "a remand centre or". Children and Young Persons Act 1969.—cont. In section 46(1), "within the meaning of the Probation Service Act 1993". In Schedule 3, in paragraph 9(2)(a), "or".
1971 c. 40.	Fire Precautions Act 1971.	In section 40(2)(a), "remand centre".
1972 c. 70.	Local Government Act 1972.	In Part I of Schedule 12A, in paragraph 2(a), "or".
1974 c. 23.	Juries Act 1974.	In Schedule 1, in Part I, in Group B, in the entry for the warden and staff of a probation hostel or bail hostel, "(within the meaning of the Probation Service Act 1993)".
1976 c. 36.	Adoption Act 1976.	In section 65(1)(b), "of a person to act as reporting officer". Section 65A.
1980 c. 43.	Magistrates' Courts Act 1980.	In section 11(3), "or detention in a detention centre". In section 31, in subsections (1) and (2), "or youth custody". Section 72.

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		In section 77(2), “or detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of persons aged 18 to 20 for default)”.
		In section 82(1)(c), “youth custody or detention in a detention centre”.
		Section 96A.
		In section 133, in subsection (1), the first, second and fourth mentions of “or youth custody” and subsection (2A).
		Section 135(3).
		Section 136(4).
		In Schedule 6A, the entry relating to Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000.
1980 c. 57.	Imprisonment (Temporary Provisions) Act 1980.	In section 6, in subsections (1) and (2), “remand centre”.
1983 c. 20.	Mental Health Act 1983.	In section 48(2)(a), “or remand centre”.
1983 c. 41.	Health and Social Services and Social Security Adjudications Act 1983.	In section 10(16), paragraph (b) and the “and” preceding it.
1988 c. 33.	Criminal Justice Act 1988.	In section 75(3), “or of detention under section 108 of that Act of 2000 (detention of persons aged 17 to 20 for contempt)”.
1988 c. 34.	Legal Aid Act 1988.	In section 21(11), “or a remand centre”.
1988 c. 52.	Road Traffic Act 1988.	Section 105(2)(b).
1989 c. 41.	Children Act 1989.	In section 16, subsections (8) and (9).
		In section 31(1)(b), “or of a probation officer”.
		In section 41, subsections (7) to (9) and (12).
		In section 58(4)(a), “or”.
		In Schedule 3, in paragraph 9, sub-paragraphs (2) to (5).
		In Schedule 10, paragraph 29.
1990 c. 41.	Courts and Legal Services Act 1990.	In Schedule 16, paragraphs 7 and 17.

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		In Schedule 18, paragraph 25(4)(b).
1991 c. 25.	Criminal Procedure (Insanity and Unfitness to Plead) Act 1991.	In Schedule 1, in paragraph 4(1), paragraph (c) and the “or” preceding it.
1991 c. 53.	Criminal Justice Act 1991.	Section 37A(7). In section 45(1), “or to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000”. Section 68(b). In section 92(1), in the definition of “prison”, “or remand centre”. In Schedule 8, paragraphs 2 and 6(3). In Schedule 12, in paragraphs 15(4) and 16(3), “remand centre or”.
1992 c. 14.	Local Government Finance Act 1992.	In Schedule 1, in paragraph 1(4), “or section 108 of the Powers of Criminal Courts (Sentencing) Act 2000”.
1993 c. 47.	Probation Service Act 1993.	The whole Act.
1994 c. 19.	Local Government (Wales) Act 1994.	In Schedule 16, paragraph 109.
1994 c. 33.	Criminal Justice and Public Order Act 1994.	In section 117(3)(a), “and a remand centre”. Criminal Justice and Public Order Act 1994.—cont. In section 125(3)(a), “remand centre or”. In Schedule 10, paragraphs 72 and 73.
1994 c. 37.	Drug Trafficking Act 1994.	In section 9, in subsection (2), “or of detention under section 108 of the 2000 Act (detention of persons aged 18 to 20 for default)” and, in subsection (5), “or detention”. In section 10(2), “or detention”. In section 15(13), “or of detention”. In section 16(4)(b), “or detention”.

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		In section 17(4)(b), “or of detention”.
		In section 21(5)(a), “or of detention”.
		In section 41(7), “or detention”.
1996 c. 33.	Prisoners’ Earnings Act 1996.	In section 4(2), in the definition of “prisoner”, “or remand centre”.
1997 c. 43.	Crime (Sentences) Act 1997.	Section 28(9). In section 34(1), the words following the first mention of “sentences”.
		In Schedule 5, paragraph 5(1).
1998 c. 37.	Crime and Disorder Act 1998.	In Schedule 8, paragraph 110.
1999 c. 14.	Protection of Children Act 1999.	Section 6.
1999 c. 22.	Access to Justice Act 1999.	In Schedule 10, paragraphs 17 and 41 to 45. In Schedule 11, paragraphs 15 and 42.
1999 c. 29.	Greater London Authority Act 1999.	Section 326.
2000 c. 6.	Powers of Criminal Courts (Sentencing) Act 2000.	Section 38. In section 40(1)(a), the words from “(including” to “available)”.
		In section 46(13), “(a) or (b)”.
		In section 47(5)(a), “(a) or (b)”.
		In section 64(2), the words from “and selected under arrangements” to the end of the subsection.
		In section 76(1), paragraphs (c) and (d).
		In section 78, in subsections (1) and (2), “or detention in a young offender institution”.
		In section 87(12), paragraph (b) and the preceding “and”.
		Sections 93 to 98.
		Section 99(2).
		In section 106, subsection (1) and, in subsection (3), the

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words from the beginning to “and”.

Section 108.

Section 110(6).

Section 111(6).

Section 137(2)(a).

In section 139, in subsection (2), “or of detention under section 108 above (detention of persons aged 18 to 20 for default)”, in subsection (3), “or detained”, in subsection (3) (c), “custody for life or detention in a young offender institution”, in subsection (4), “or detention” and, in subsection (5), the second “or detention”.

In section 140(3), “or detention under section 108 above”.

In section 163, the definitions of “combination order”, “probation order” and “probation period”.

In Schedule 3, paragraph 9(2), in paragraph 25, sub-paragraph (2) and, in sub-paragraph (3), “or (2)”.

In Schedule 7, in paragraph 7(7), paragraph (a) and, in paragraph (b), “if the justice or youth court has not been so notified”.

In Schedule 8, in paragraph 6(7), paragraph (a) and, in paragraph (b), “if it has not been so notified”.

In Schedule 9, paragraphs 5(3), 9, 10, 12, 14, 15, 17, 19, 20, 22, 34(a), 56, 57, 66, 68, 70, 77, 78, 111(4), 143(b), 152 to 156, 166(3), 182, in paragraph 183, sub-paragraph (2)(b) and the preceding “and”, sub-paragraphs (3)(b) and (3)(c) and paragraph 188.

In Schedule 10, in paragraph 12(2), the “and” preceding paragraph (d).

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2000 c. 21.	Learning and Skills Act 2000.	In section 121(1), the definition of “probation committee”.
2000 c.	Criminal Justice and Court Services Act 2000.	In section 30(1), paragraph (b) of the definition of “qualifying sentence”. In section 69(7), paragraph (b) of the definition of “relevant sentence”.

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The repeals—

- (a) in sections 28 and 34 of, and paragraph 5 of Schedule 5 to, the Crime (Sentences) Act 1997, and
- (b) of paragraphs 182 and 188 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000,

have effect in relation to sentences passed after the coming into force of section 60 of this Act.

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