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Criminal Justice and Police Act 2001

2001 CHAPTER 16

An Act to make provision for combatting crime and disorder; to make provision about the disclosure of information relating to criminal matters and about powers of search and seizure; to amend the Police and Criminal Evidence Act 1984, the Police and Criminal Evidence (Northern Ireland) Order 1989 and the Terrorism Act 2000; to make provision about the police, the National Criminal Intelligence Service and the National Crime Squad; to make provision about the powers of the courts in relation to criminal matters; and for connected purposes. [11th May 2001]

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 1

PROVISIONS FOR COMBATTING CRIME AND DISORDER

CHAPTER 1

ON THE SPOT PENALTIES FOR DISORDERLY BEHAVIOUR

Modifications etc. (not altering text)

C1 Pt. 1 Ch. 1 extended (15.11.2003) by Police Reform Act 2002 (c. 30), ss. 38, 108, **Sch. 4 para. 1(2)(a)**; S.I. 2003/2593, **art. 2(d)**

C2 Pt. 1 Ch. 1 modified (26.12.2004) by The Penalties for Disorderly Behaviour (Amendment of Minimum Age) Order 2004 (S.I. 2004/3166), **art. 6**

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Offences to which this Chapter applies

1 Offences leading to penalties on the spot

(1) For the purposes of this Chapter "penalty offence" means an offence committed under any of the provisions mentioned in the first column of the following Table and described, in general terms, in the second column:

Offence creating provision	***Description of offence***
Section 12 of the Licensing Act 1872 (c.94)	Being drunk in a highway, other public place or licensed premises
Section 80 of the Explosives Act 1875 (c.17)	Throwing fireworks in a thoroughfare
Section 31 of the Fire Services Act 1947 (c.41)	Knowingly giving a false alarm to a fire brigade
Section 55 of the British Transport Commission Act 1949 (c.xxix)	Trespassing on a railway
Section 56 of the British Transport Commission Act 1949 (c.xxix)	Throwing stones etc. at trains or other things on railways
Section 169C(3) of the Licensing Act 1964 (c.26)	Buying or attempting to buy alcohol for consumption in a bar in licensed premises by a person under 18
Section 91 of the Criminal Justice Act 1967 (c.80)	Disorderly behaviour while drunk in a public place
Section 5(2) of the Criminal Law Act 1967 (c.58)	Wasting police time or giving false report
Section 43(1)(b) of the Telecommunications Act 1984 (c.12)	Using public telecommunications system for sending message known to be false in order to cause annoyance
[[F1]Section 5 of the Public Order Act 1986 (c.64)	Behaviour likely to cause harassment, alarm or distress**]**
Section 12 of this Act	Consumption of alcohol in designated public place

(2) The Secretary of State may by order amend an entry in the Table or add or remove an entry.

(3) An order under subsection (2) may make such amendment of any provision of this Chapter as the Secretary of State considers appropriate in consequence of any change in the Table made by the order.

(4) The power conferred by subsection (2) is exercisable by statutory instrument.

(5) No order shall be made under subsection (2) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

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Textual Amendments

F1 S. 1(1) table: entry inserted (22.7.2002) by The Criminal Justice and Police Act 2001 (Amendment) Order 2002 (S.I. 2002/1934), **art. 2**

Commencement Information

I1 S. 1 wholly in force at 12.8.2002; s. 1 not in force at Royal Assent see s. 138; s. 1 in force for certain purposes at 1.3.2002 by S.I. 2002/344, **art. 2**; s. 1 in force at 12.8.2002 in so far as not already in force by S.I. 2002/2050, **art. 2**

Penalty notices and penalties

2 Penalty notices

(1) A constable who has reason to believe that a person aged 18 or over has committed a penalty offence may give him a penalty notice in respect of the offence.

(2) Unless the notice is given in a police station, the constable giving it must be in uniform.

(3) At a police station, a penalty notice may be given only by an authorised constable.

(4) In this Chapter "penalty notice" means a notice offering the opportunity, by paying a penalty in accordance with this Chapter, to discharge any liability to be convicted of the offence to which the notice relates.

(5) "Authorised constable" means a constable authorised, on behalf of the chief officer of police for the area in which the police station is situated, to give penalty notices.

3 Amount of penalty and form of penalty notice

(1) The penalty payable in respect of a penalty offence is such amount as the Secretary of State may specify by order.

(2) But the Secretary of State may not specify an amount which is more than a quarter of the amount of the maximum fine for which a person is liable on conviction of the offence.

(3) A penalty notice must—

(a) be in the prescribed form;

(b) state the alleged offence;

(c) give such particulars of the circumstances alleged to constitute the offence as are necessary to provide reasonable information about it;

(d) specify the suspended enforcement period (as to which see section 5) and explain its effect;

(e) state the amount of the penalty;

(f) state the justices' chief executive to whom, and the address at which, the penalty may be paid; and

(g) inform the person to whom it is given of his right to ask to be tried for the alleged offence and explain how that right may be exercised.

(4) "Prescribed" means prescribed by regulations made by the Secretary of State.

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(5) The power to make regulations or an order conferred by this section is exercisable by statutory instrument.

(6) Such an instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4 Effect of penalty notice

(1) This section applies if a penalty notice is given to a person ("A") under section 2.

(2) If A asks to be tried for the alleged offence, proceedings may be brought against him.

(3) Such a request must be made by a notice given by A—
- (a) in the manner specified in the penalty notice; and
- (b) before the end of the period of suspended enforcement (as to which see section 5).

(4) A request which is made in accordance with subsection (3) is referred to in this Chapter as a "request to be tried".

(5) If, by the end of the suspended enforcement period—
- (a) the penalty has not been paid in accordance with this Chapter, and
- (b) A has not made a request to be tried,

a sum equal to one and a half times the amount of the penalty may be registered under section 8 for enforcement against A as a fine.

5 General restriction on proceedings

(1) Proceedings for the offence to which a penalty notice relates may not be brought until the end of the period of 21 days beginning with the date on which the notice was given ("the suspended enforcement period").

(2) If the penalty is paid before the end of the suspended enforcement period, no proceedings may be brought for the offence.

(3) Subsection (1) does not apply if the person to whom the penalty notice was given has made a request to be tried.

6 Secretary of State's guidance

The Secretary of State may issue guidance—
- (a) about the exercise of the discretion given to constables by this Chapter;
- (b) about the issuing of penalty notices;
- (c) with a view to encouraging good practice in connection with the operation of provisions of this Chapter.

Procedure

7 Payment of penalty

(1) If a person to whom a penalty notice is given decides to pay the penalty, he must pay it to the justices' chief executive specified in the notice.

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(2) Payment of the penalty may be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise).

(3) Subsection (4) applies if a person—
  (a) claims to have made payment by that method, and
  (b) shows that his letter was posted.

(4) Unless the contrary is proved, payment is to be regarded as made at the time at which the letter would be delivered in the ordinary course of post.

(5) Subsection (2) is not to be read as preventing the payment of a penalty by other means.

(6) A letter is properly addressed for the purposes of subsection (2) if it is addressed in accordance with the requirements specified in the penalty notice.

8 Registration certificates

(1) The chief officer of police may, in respect of any registrable sum, issue a certificate (a "registration certificate") stating that the sum is registrable for enforcement against the defaulter as a fine.

(2) If that officer issues a registration certificate, he must cause it to be sent to the justices' chief executive for the petty sessions area in which the defaulter appears to that officer to reside.

(3) A registration certificate must—
  (a) give particulars of the offence to which the penalty notice relates, and
  (b) state the name and last known address of the defaulter and the amount of the registrable sum.

(4) "Registrable sum" means a sum that may be registered under this section as a result of section 4(5).

(5) "Defaulter" means the person against whom that sum may be registered.

9 Registration of sums payable in default

(1) If the justices' chief executive for a petty sessions area receives a registration certificate, he must register the registrable sum for enforcement as a fine in that area by entering it in the register of a magistrates' court acting for that area.

(2) But if it appears to him that the defaulter does not reside in that area—
  (a) subsection (1) does not apply to him; but
  (b) he must cause the certificate to be sent to the person appearing to him to be the appropriate justices' chief executive.

(3) A justices' chief executive registering a sum under this section for enforcement as a fine, must give the defaulter notice of the registration.

(4) The notice must—
  (a) specify the amount of the sum registered, and
  (b) give the information with respect to the offence, and the authority for registration, which was included in the registration certificate under section 8.

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(5) If a sum is registered in a magistrates' court as a result of this section, any enactment referring (in whatever terms) to a fine imposed, or other sum adjudged to be paid, on conviction by such a court applies as if the registered sum were a fine imposed by that court on the conviction of the defaulter on the date on which the sum was registered.

10 Enforcement of fines

(1) In this section—

"fine" means a sum which is enforceable as a fine as a result of section 9; and

"proceedings" means proceedings for enforcing a fine.

(2) Subsection (3) applies if, in any proceedings, the defaulter claims that he was not the person to whom the penalty notice concerned was issued.

(3) The court may adjourn the proceedings for a period of not more than 28 days for the purpose of allowing that claim to be investigated.

(4) On the resumption of proceedings that have been adjourned under subsection (3), the court must accept the defaulter's claim unless it is shown, on a balance of probabilities, that he was the recipient of the penalty notice.

(5) The court may set aside a fine in the interests of justice.

(6) If the court does set a fine aside it must—

(a) give such directions for further consideration of the case as it considers appropriate; or

(b) direct that no further action is to be taken in respect of the allegation that gave rise to the penalty notice concerned.

Interpretation

11 Interpretation of Chapter 1

In this Chapter—

"chief officer of police" includes the Chief Constable of the British Transport Police;

"defaulter" has the meaning given in section 8(5);

"penalty notice" has the meaning given in section 2(4);

"penalty offence" has the meaning given in section 1(1);

"registrable sum" has the meaning given in section 8(4).

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CHAPTER 2

PROVISIONS FOR COMBATTING ALCOHOL-RELATED DISORDER

Alcohol consumption in designated public places

12 Alcohol consumption in designated public places

(1) Subsection (2) applies if a constable reasonably believes that a person is, or has been, consuming intoxicating liquor in a designated public place or intends to consume intoxicating liquor in such a place.

(2) The constable may require the person concerned—

(a) not to consume in that place anything which is, or which the constable reasonably believes to be, intoxicating liquor;

(b) to surrender anything in his possession which is, or which the constable reasonably believes to be, intoxicating liquor or a container for such liquor (other than a sealed container).

(3) A constable may dispose of anything surrendered to him under subsection (2) in such manner as he considers appropriate.

(4) A person who fails without reasonable excuse to comply with a requirement imposed on him under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) A constable who imposes a requirement on a person under subsection (2) shall inform the person concerned that failing without reasonable excuse to comply with the requirement is an offence.

(6) [F2] . . . . . .

Textual Amendments

F2 S. 12(6) repealed (1.10.2002) by Police Reform Act 2002 (c. 30), s. 107, **Sch. 8**; S.I. 2002/2306, **art. 2(g)(iii)(j)**

Modifications etc. (not altering text)

C3 S. 12 extended (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 para. 5**; S.I. 2002/2750, **art. 2**
S. 12 extended (with modifications) (2.12.2002) by Police Reform Act 2002 (c. 30), s. 41, 108, **Sch. 5 para. 4**; S.I. 2002/2750, **art. 2**

13 Designated public places

(1) A place is, subject to section 14, a designated public place if it is—

(a) a public place in the area of a local authority; and

(b) identified in an order made by that authority under subsection (2).

(2) A local authority may for the purposes of subsection (1) by order identify any public place in their area if they are satisfied that—

(a) nuisance or annoyance to members of the public or a section of the public; or

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(b) disorder;

has been associated with the consumption of intoxicating liquor in that place.

(3) The power conferred by subsection (2) includes power—

(a) to identify a place either specifically or by description;

(b) to revoke or amend orders previously made.

(4) The Secretary of State shall by regulations prescribe the procedure to be followed in connection with the making of orders under subsection (2).

(5) Regulations under subsection (4) shall, in particular, include provision requiring local authorities to publicise the making and effect of orders under subsection (2).

(6) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C4 S. 13(2): functions of local authority not to be responsibility of an executive of the authority (E.) (1.9.2001) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1** (as amended by S.I. 2001/2831, **reg. 10**) which S.I. was revoked by S.I. 2007/806, **reg. 11** and that effect continued by virtue of S.I. 2007/806, **reg. 10(2)(b)**

Commencement Information

I2 S. 13 wholly in force at 1.9.2001; s. 13 not in force at Royal Assent see s. 138; s. 13 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, **art. 2(2)(b)**; s. 13 in force at 1.9.2001 by S.I. 2001/2223, **art. 4(a)**

14 Places which are not designated public places

(1) A place is not a designated public place or a part of such a place if it is—

(a) licensed premises or a registered club;

(b) a place within the curtilage of any licensed premises or registered club;

(c) a place where the sale of intoxicating liquor is for the time being authorised by an occasional permission or was so authorised within the last twenty minutes;

(d) a place where the sale of intoxicating liquor is not for the time being authorised by an occasional licence but was so authorised within the last twenty minutes;

(e) a place where facilities or activities relating to the sale or consumption of intoxicating liquor are for the time being permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (c. 66) (highway related uses).

(2) In subsection (1)—

"licensed premises", "occasional licence" and "registered club" have the same meaning as in the Licensing Act 1964 (c. 26); and

"occasional permission" has the same meaning as in the Licensing (Occasional Permissions) Act 1983 (c. 24).

15 Effect of sections 12 to 14 on byelaws

(1) Subsections (2) and (3) apply to any byelaw which—

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(a) prohibits, by the creation of an offence, the consumption in a particular public place of intoxicating liquor (including any liquor of a similar nature which falls within the byelaw); or

(b) makes any incidental, supplementary or consequential provision (whether relating to the seizure or control of containers or otherwise).

(2) In so far as any byelaw to which this subsection applies would, apart from this subsection, have effect in relation to any designated public place, the byelaw—

(a) shall cease to have effect in relation to that place; or

(b) where it is made after the order under section 13(2), shall not have effect in relation to that place.

(3) In so far as any byelaw made by a local authority and to which this subsection applies still has effect at the end of the period of 5 years beginning with the day on which this subsection comes into force, it shall cease to have effect at the end of that period in relation to any public place.

16 Interpretation of sections 12 to 15

(1) In sections 12 to 15, unless the context otherwise requires—

"designated public place" has the meaning given by section 13(1);

"intoxicating liquor" has the same meaning as in the Licensing Act 1964; and

"public place" means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

(2) In sections 12 to 15 "local authority" means—

(a) in relation to England—

(i) a unitary authority;

(ii) a district council so far as they are not a unitary authority;

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

(3) In subsection (2) "unitary authority" means—

(a) the council of a county so far as they are the council for an area for which there are no district councils;

(b) the council of any district comprised in an area for which there is no county council;

(c) a London borough council;

(d) the Common Council of the City of London in its capacity as a local authority;

(e) the Council of the Isles of Scilly.

Closure of certain licensed premises

17 Closure of certain licensed premises due to disorder or disturbance

In Part 13 of the Licensing Act 1964 (c. 26) (miscellaneous) before section 180 there shall be inserted—

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" Closure of certain licensed premises due to disorder or disturbance.

179A **Closure order**

(1) A senior police officer may make a closure order in relation to relevant licensed premises if he reasonably believes that—
  (a) there is likely to be disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety;
  (b) there is disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety; or
  (c) a disturbance is being caused to the public by excessive noise emitted from the premises and the closure of the premises is necessary to prevent the disturbance.

(2) In this section and sections 179B to 179K of this Act—

"closure order" means an order requiring relevant licensed premises to be closed for a period not exceeding twenty-four hours beginning with the coming into force of the order; and

"relevant licensed premises" means licensed premises other than premises for which a justices' off-licence only or an occasional licence is in force and other than premises in respect of which a notice under section 199(c) of this Act is in force.

(3) In determining whether to make a closure order the senior police officer shall consider, in particular, any conduct of the holder of the justices' licence for the premises or the manager of the premises in relation to the disorder or disturbance.

(4) A closure order shall—
  (a) specify the premises which are to be closed;
  (b) specify the period for which the premises are to be closed;
  (c) specify the grounds for the making of the order; and
  (d) state the effect of sections 179B to 179E of this Act.

(5) A closure order shall come into force as soon as notice of the order is given by a constable to—
  (a) the holder of the justices' licence for the premises; or
  (b) a manager of the premises.

(6) A person who, without reasonable excuse, permits relevant licensed premises to be open in contravention of a closure order or any extension of it shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

179B **Consideration of closure order by certain justices**

(1) The responsible senior police officer shall, as soon as reasonably practicable after the coming into force of a closure order, apply to relevant justices for them to consider under this section the order and any extension of it.

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(2) The relevant justices shall, as soon as reasonably practicable, consider whether to exercise their powers under subsection (3) of this section in relation to the order and any extension of it.

(3) The relevant justices may—
  (a) revoke the order and any extension of it if the order or extension is still in force;
  (b) order the relevant licensed premises to remain, or to be, closed until the matter is dealt with by an order of licensing justices at the next licensing sessions;
  (c) make any other order as they think fit in relation to the premises.

(4) In determining whether the premises will be, or will remain, closed the relevant justices shall, in particular, consider whether—
  (a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because of disorder or likely disorder on the premises or in the vicinity of, and related to, the premises;
  (b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.

(5) A person who, without reasonable excuse, permits relevant licensed premises to be open in contravention of an order made under subsection (3)(b) of this section shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

(6) A person who, without reasonable excuse, fails to comply with, or does an act in contravention of, an order made under subsection (3)(c) of this section shall be guilty of an offence and shall be liable to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

(7) In this section and sections 179C to 179K of this Act "relevant justices" means—
  (a) licensing justices for the licensing district in which the premises are situated; or
  (b) if no such justices are available within a reasonable time, justices of the peace acting for the petty sessions area in which the premises are situated.

(8) In this section and sections 179C to 179K of this Act "the responsible senior police officer" means the senior police officer who made the closure order or, if another senior police officer is designated for this purpose by the chief officer of police for the police area in which the premises are situated, that other senior police officer.

179C **Extensions of closure order**

(1) If, before the end of the period for which relevant licensed premises are to be closed under a closure order or any extension of it ("the closure period"), the responsible senior police officer reasonably believes that—

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(a) relevant justices will not have considered under section 179B of this Act the order and any extension of it by the end of the closure period; and

(b) the conditions for an extension under this subsection are satisfied,

he may extend the closure period for a further period, not exceeding twenty-four hours, beginning with the expiry of the previous closure period.

(2) For the purposes of subsection (1) of this section the conditions for an extension under that subsection are that—

(a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because of disorder or likely disorder on the premises or in the vicinity of, and related to, the premises;

(b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.

(3) An extension under subsection (1) of this section shall, subject to subsection (4) of this section, come into force as soon as notice of it has been given by a constable to—

(a) the holder of the justices' licence for the premises; or

(b) a manager of the premises.

(4) No such extension shall come into force unless the notice has been given before the end of the previous closure period.

179D **Cancellation of closure order**

(1) At any time—

(a) after a closure order has been made; but

(b) before the order and any extension of it has been considered by relevant justices under section 179B of this Act,

the responsible senior police officer may cancel the order and any extension of it.

(2) The responsible senior police officer shall cancel the closure order and any extension of it if he does not reasonably believe that—

(a) in the case of an order made by virtue of section 179A(1)(a) or (b) of this Act, closure is necessary in the interests of public safety because of disorder or likely disorder on the relevant licensed premises or in the vicinity of, and related to, the premises;

(b) in the case of an order made by virtue of section 179A(1)(c) of this Act, closure is necessary to ensure that no disturbance is, or is likely to be, caused to the public by excessive noise emitted from the premises.

(3) Where a closure order and any extension of it is cancelled under subsection (1) or (2) of this section, the responsible senior police officer shall ensure that notice of the cancellation is given to—

(a) the holder of the justices' licence for the premises; or

(b) a manager of the premises.

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179E **Revocation of justices' licence etc. after closure order**

(1) Where a closure order has come into force in relation to relevant licensed premises, licensing justices for the licensing district in which the premises are situated shall of their own motion consider, at the next licensing sessions, whether to exercise their powers under subsection (2) of this section.

(2) The licensing justices may—
  (a) revoke the justices' licence for the premises concerned; or
  (b) attach to it such conditions as they think fit (whether in substitution for any conditions previously attached or otherwise);

but no payment may be required in pursuance of a condition attached under paragraph (b) of this subsection.

(3) The power under subsection (2) of this section to revoke a justices' licence is exercisable on any ground on which licensing justices might refuse to renew a justices' licence or a justices' licence of that description.

(4) Licensing justices may only exercise their powers under subsection (2) of this section if, at least seven days before the commencement of the licensing sessions concerned, notice of the proposed exercise of the powers has been given to the holder of the licence specifying in general terms—
  (a) the grounds on which it is proposed that the licence should be revoked; or
  (b) (as the case may be) the conditions which are proposed to be attached to the licence and the reasons for them.

(5) Where licensing justices have decided at the next licensing sessions whether to exercise their powers under subsection (2) of this section, they may also make such order as they think fit in relation to the closure order and any extension of it or any order under section 179B of this Act.

(6) Where licensing justices have decided to revoke a justices' licence under subsection (2) of this section, the revocation shall, subject to subsection (7) of this section, not have effect—
  (a) until the expiry of the time given for appealing against the decision; or
  (b) if the decision is appealed against, until the appeal is disposed of.

(7) Where the premises to which the licence relates have been closed until the making of the decision to revoke the licence by virtue of an order under section 179B(3)(b) of this Act, the premises shall, subject to section 179G(5) of this Act, remain closed (but the licence otherwise in force)—
  (a) until the expiry of the time given for appealing against the decision to revoke; or
  (b) if the decision is appealed against, until the appeal is disposed of.

(8) A person who, without reasonable excuse, permits premises to be open in contravention of subsection (7) of this section shall be guilty of an offence and shall be liable to a fine not exceeding £20,000 or to imprisonment for a term not exceeding three months or to both.

(9) Where licensing justices have decided to attach conditions to a licence under subsection (2) of this section, the licensing justices may, on such terms as they

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think fit, suspend the operation of those conditions in whole or in part pending the determination of any appeal against the decision to attach them or pending the consideration of the question of bringing such an appeal.

179F **Procedural requirements**

(1) Where an application under section 179B(1) of this Act is made to justices of the peace acting for the petty sessions area in which the premises concerned are situated, the responsible senior police officer shall give notice to the chief executive to the licensing justices for the licensing district in which the relevant licensed premises are situated—

(a) that a closure order has come into force;

(b) of the contents of the order and of any extension to the order; and

(c) of the application under section 179B(1) of this Act.

(2) The powers conferred on licensing justices by section 179B of this Act may be exercised by a single justice and may be exercised otherwise than at licensing sessions.

(3) The powers conferred on justices of the peace by section 179B of this Act shall be exercisable in the place required by the Magistrates' Courts Act 1980 (c. 43) for the hearing of a complaint and may be exercised by a single justice.

(4) Evidence given for the purpose of proceedings under section 179B or 179E of this Act shall be given on oath.

(5) The Secretary of State may make regulations about the procedure and practice to be followed on and in connection with proceedings before licensing justices under sections 179B and 179E of this Act.

179G **Rights of appeal**

(1) Any person aggrieved by a decision of relevant justices under section 179B of this Act or of licensing justices under section 179E of this Act may appeal to the Crown Court against the decision.

(2) An appeal under subsection (1) of this section shall be commenced by notice of appeal given by the appellant to the chief executive to the licensing justices or (as the case may be) to the justices' chief executive within 21 days after the decision appealed against.

(3) On an appeal against a decision under section 179E of this Act by licensing justices not to revoke a justices' licence, the holder of the licence shall be respondent in addition to the licensing justices.

(4) Where the holder of a justices' licence gives notice of appeal against a decision under section 179E of this Act by licensing justices to revoke the licence, the Crown Court may, on such conditions as it thinks fit, order that the licence shall continue in force until the determination of the appeal notwithstanding that the appeal is not determined until after the date when the licence would otherwise cease to have effect.

(5) Where—

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(a) the holder of a justices' licence gives notice of appeal against a decision under section 179E of this Act by licensing justices to revoke the licence; and

(b) the premises are closed by virtue of section 179E(7) of this Act,

the Crown Court may, on such conditions as it thinks fit, order that section 179E(7) of this Act shall not apply to the premises.

(6) Sections 21 and 22(3A) of this Act (appeals) do not apply to any decision of licensing justices which is subject to a right of appeal under subsection (1) of this section or to any appeal under subsection (1) of this section.

(7) Section 22(4), (6) and (7), section 23(3) and (4) and section 25(1) of this Act shall apply, with necessary modifications, to appeals under subsection (1) of this section against decisions of licensing justices as they apply to appeals under section 21 of this Act.

(8) Section 23(4) of this Act shall have effect, in its application by virtue of subsection (7) of this section, as if the reference to section 21(4) of this Act were a reference to subsection (4) of this section.

179H **Enforcement**

(1) This section applies where a closure order or an order under section 179B(3)(b) of this Act has been made in relation to relevant licensed premises.

(2) Any person who without reasonable excuse fails to leave the premises when asked to do so, for the purposes of ensuring compliance with the order concerned (or with any extension of a closure order or with section 179E(7) of this Act), by the holder of the justices' licence for the premises or any manager of the premises shall be guilty of an offence and liable to a fine not exceeding level 1 on the standard scale.

(3) A constable shall, on the request of the holder of the justices' licence or any manager of the premises or any agent or servant of either of them, help to remove from the premises any person who is required to leave the premises by virtue of subsection (2) of this section.

(4) A constable may use such reasonable force as may be required for the purpose of giving help under subsection (3) of this section.

179I **Exemption from liability for certain damages**

(1) A constable shall not be liable for relevant damages in respect of anything done or omitted to be done by him in the performance or purported performance of his functions in relation to a closure order or any extension of it.

(2) A chief officer of police shall not be liable for relevant damages in respect of anything done or omitted to be done by a constable under his direction or control in the performance or purported performance of the constable's functions in relation to a closure order or any extension of it.

(3) Neither subsection (1) of this section nor subsection (2) of this section applies—

(a) if the act or omission is shown to have been in bad faith; or

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(b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).

(4) This section is without prejudice to any other exemption from liability for damages (whether at common law or otherwise).

(5) In this section "relevant damages" means damages in proceedings for judicial review or for the tort of negligence or misfeasance in public office.

179J **Offences by body corporate**

(1) Where an offence under section 179A(6) or 179B(5) or (6) or 179E(8) of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, he as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) of this section applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

179K **Interpretation of sections 179A to 179K**

(1) In sections 179A to 179J of this Act and this section—

"chief officer of police" has the meaning given by section 101(1) of the Police Act 1996 (c. 16);

"closure order" has the meaning given by section 179A(2) of this Act;

"manager" (except in section 179J(1) of this Act) means any person who works in relevant licensed premises in a capacity which gives him authority to close the premises;

"the next licensing sessions" means the first licensing sessions held not less than fourteen days after the day on which the closure order concerned was considered by relevant justices under section 179B of this Act;

"notice" means notice in writing;

"police area" means a police area provided for by section 1 of the Police Act 1996 (c. 16);

"relevant justices" has the meaning given by section 179B(7) of this Act;

"relevant licensed premises" has the meaning given by section 179A(2) of this Act;

"the responsible senior police officer" has the meaning given by section 179B(8) of this Act; and

"senior police officer" means a police officer of or above the rank of inspector.

(2) For the purposes of sections 179A to 179J of this Act, relevant licensed premises are open if any person other than the holder of the justices' licence

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for the premises, a manager of the premises or any member of the family of either of them—

(a) enters onto the premises; and

(b) purchases, or is supplied with, any item of food or drink or any item which is usually sold on the premises.

Other"

18 Amendments consequential on section 17

(1) In section 31(2) of the Licensing Act 1964 (c. 26) (convictions etc. to be entered in register of licences) after "enactment" there shall be inserted " , any closure order under section 179A of this Act in relation to premises, any order under section 179B(3)(b) of this Act in relation to premises ".

(2) In section 174(2) of that Act (offence of failing to leave licensed premises when requested if drunk or disorderly etc.) after "fails" there shall be inserted " without reasonable excuse ".

(3) In section 196A(1) of that Act (extension to certain proceedings of section 97 of the Magistrates' Courts Act 1980 (c. 43))—

(a) at the end of paragraph (a), the word "and" shall be omitted; and

(b) after paragraph (b) there shall be inserted "; and

(c) proceedings under section 179E of this Act."

(4) In section 197 of that Act (service of notices) after "of this Act" there shall be inserted " or in regulations made under section 179F(5) of this Act ".

(5) The amendment made by subsection (2) above shall not apply in relation to any request to leave made before the coming into force of that subsection.

Closure of unlicensed premises

19 Closure notices

(1) Where a constable is satisfied that any premises are being, or within the last 24 hours have been, used for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises, he may serve under subsection (3) a notice in respect of the premises.

(2) Where a local authority is satisfied that any premises in the area of the authority are being, or within the last 24 hours have been, used for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises, the authority may serve under subsection (3) a notice in respect of the premises.

(3) A notice under subsection (1) or (2) ("a closure notice") shall be served by the constable or local authority concerned on a person having control of, or responsibility for, the activities carried on at the premises.

(4) A closure notice shall also be served by the constable or local authority concerned on any person occupying another part of any building or other structure of which the premises form part if the constable or (as the case may be) the local authority concerned reasonably believes, at the time of serving notice under subsection (3), that

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the person's access to the other part of the building or other structure would be impeded if an order under section 21 providing for the closure of the premises were made.

(5) A closure notice may also be served by a constable or the local authority concerned on—

(a) any other person having control of, or responsibility for, the activities carried on at the premises;

(b) any person who has an interest in the premises.

(6) A closure notice shall—

(a) specify the alleged use of the premises and the grounds on which the constable or (as the case may be) the local authority concerned is satisfied as mentioned in subsection (1) or (as the case may be) subsection (2);

(b) state the effect of section 20; and

(c) specify the steps which may be taken to ensure that the alleged use of the premises ceases or (as the case may be) does not recur.

(7) A closure notice served by a constable or local authority may be cancelled by a notice of cancellation served by a constable or (as the case may be) the local authority concerned.

(8) Any such notice of cancellation shall have effect as soon as it is served by a constable or (as the case may be) the authority concerned on at least one person on whom the closure notice was served.

(9) The constable or (as the case may be) the local authority concerned shall also serve the notice of cancellation on any other person on whom the closure notice was served.

(10) For the purposes of subsections (3) and (5) a person having control of, or responsibility for, the activities carried on at the premises includes a person who—

(a) derives or seeks to derive profit from the carrying on of the activities;

(b) manages the activities;

(c) employs any person to manage the activities; or

(d) is involved in the conduct of the activities.

20 Applications for closure orders

(1) Where a closure notice has been served under section 19(3), a constable or (as the case may be) the local authority concerned may make a complaint to a justice of the peace acting for the petty sessions area in which the premises are situated for an order under section 21 (a "closure order").

(2) A complaint under subsection (1) shall be made not less than seven days, and not more than six months, after the service of the closure notice under section 19(3).

(3) No complaint shall be made under subsection (1) if the constable or (as the case may be) the local authority is satisfied that—

(a) the use of the premises for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises has ceased; and

(b) there is no reasonable likelihood that the premises will be so used in the future.

(4) Where a complaint has been made to a justice of the peace under subsection (1), the justice may issue a summons to answer to the complaint.

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(5) The summons shall be directed to—
  (a) the person on whom the closure notice was served under section 19(3); and
  (b) any other person on whom the closure notice was served under section 19(5)(a).

(6) Where a summons is served in accordance with subsections (4) and (5), a notice stating the date, time and place at which the complaint will be heard shall be served on all persons on whom the closure notice was served under section 19(4) and (5)(b).

(7) The procedure on a complaint for a closure order shall (except as otherwise provided) be in accordance with the Magistrates' Courts Act 1980 (c. 43).

21 Closure orders

(1) On hearing a complaint made under section 20(1), the court may make such order as it considers appropriate if it is satisfied that—
  (a) the closure notice was served under section 19(3); and
  (b) the premises continue to be used for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises or there is a reasonable likelihood that the premises will be so used in the future.

(2) An order under this section may, in particular, require—
  (a) the premises in respect of which the closure notice was served to be closed immediately to the public and to remain closed until a constable or (as the case may be) the local authority concerned makes a certificate under section 22(1);
  (b) the use of the premises for the unlicensed sale of intoxicating liquor for consumption on, or in the vicinity of, the premises to be discontinued immediately;
  (c) any defendant to pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

(3) An order of the kind mentioned in subsection (2)(a) may, in particular, include such conditions as the court considers appropriate relating to—
  (a) the admission of persons onto the premises;
  (b) the access by persons to another part of any building or other structure of which the premises form part.

(4) The complainant shall, as soon as practicable after the making of an order under this section, give notice of the order by fixing a copy of it in a conspicuous position on the premises in respect of which it was made.

(5) A sum which has been ordered to be paid into court under this section shall be paid to the justices' chief executive for the court.

22 Termination of closure orders by constable or local authority

(1) Where a closure order has been made, a constable or (as the case may be) the local authority concerned may make a certificate to the effect that the constable or (as the case may be) the authority is satisfied that the need for the order has ceased.

(2) Where such a certificate has been made, the closure order shall cease to have effect.

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(3) Where a closure order containing provision of the kind mentioned in section 21(2)(c) ceases to have effect by virtue of the making of a certificate under subsection (1), any sum paid into court by a defendant under the order shall be released by the court.

(4) Subject to this, a closure order may include such provision as the court considers appropriate for dealing with any consequences which would arise if the order were to cease to have effect by virtue of the making of a certificate under subsection (1).

(5) The constable or (as the case may be) the local authority concerned shall, as soon as practicable after the making of a certificate under subsection (1)—
   (a) serve a copy of it on the person against whom the closure order has been made and the justices' chief executive for the court which made the order; and
   (b) fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

(6) The constable or (as the case may be) the local authority concerned shall also serve a copy of the certificate on any person who requests such a copy.

23 Discharge of closure orders by the court

(1) Where a closure order has been made—
   (a) any person on whom the closure notice concerned was served under section 19; or
   (b) any person who has an interest in the premises in respect of which the closure order was made but on whom no closure notice was served,

   may make a complaint to a justice of the peace acting for the petty sessions area in which the premises are situated for an order that the closure order be discharged.

(2) The court may not make an order under subsection (1) unless it is satisfied that the need for the closure order has ceased.

(3) Where a complaint has been made to a justice of the peace under subsection (1), the justice may issue a summons directed to such constable as he considers appropriate or (as the case may be) the local authority concerned requiring that person to appear before the magistrates' court to answer to the complaint.

(4) Where a summons is served in accordance with subsection (3), a notice stating the date, time and place at which the complaint will be heard shall be served on all persons on whom the closure notice concerned was served under section 19 (other than the complainant).

(5) The procedure on a complaint for an order under this section shall (except as otherwise provided) be in accordance with the Magistrates' Courts Act 1980 (c. 43).

24 Appeals

(1) An appeal against a closure order, an order under section 23(1) or a decision not to make an order under section 23(1) may be brought to the Crown Court at any time before the end of the period of 21 days beginning with the day on which the order or (as the case may be) the decision was made.

(2) An appeal under this section against a closure order may be brought by—

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(a) any person on whom the closure notice concerned was served under section 19; or

(b) any person who has an interest in the premises in respect of which the closure order was made but on whom no closure notice was so served.

(3) On an appeal under this section the Crown Court may make such order as it considers appropriate.

25 Enforcement of closure orders

(1) Where a closure order has been made, a constable or an authorised person may (if necessary using reasonable force)—

(a) at any reasonable time enter the premises concerned; and

(b) having so entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

(2) A constable or an authorised person seeking to enter any premises in exercise of his powers under subsection (1) shall, if required by or on behalf of the owner or occupier or person in charge of the premises, produce evidence of his identity, and of his authority, before entering the premises.

(3) Any person who intentionally obstructs a constable or an authorised person in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction—

(a) where the offence was committed in respect of a constable, to imprisonment for a term not exceeding one month or to a fine not exceeding level 5 on the standard scale or to both;

(b) where the offence was committed in respect of an authorised person, to a fine not exceeding level 5 on the standard scale.

(4) A person who, without reasonable excuse, permits premises to be open in contravention of a closure order shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both.

(5) A person who, without reasonable excuse, otherwise fails to comply with, or does an act in contravention of, a closure order shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

(6) In this section "an authorised person" means a person authorised for the purposes of this section by a local authority in respect of premises situated in the area of the authority.

26 Offences by body corporate

(1) Where an offence under section 25 committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, he as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

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(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

27 Service of notices

(1) Any document required or authorised by virtue of sections 19 to 26 to be served on any person may be served—
   (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;
   (b) if the person is a body corporate other than a limited liability partnership, by serving it in accordance with paragraph (a) on the secretary of the body;
   (c) if the person is a limited liability partnership, by serving it in accordance with paragraph (a) on a member of the partnership; or
   (d) if the person is a partnership, by serving it in accordance with paragraph (a) on a partner or a person having the control or management of the partnership business.

(2) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
   (a) in the case of service on a body corporate (other than a limited liability partnership) or its secretary, it shall be the address of the registered or principal office of the body;
   (b) in the case of service on a limited liability partnership or a member of the partnership, it shall be the address of the registered or principal office of the partnership;
   (c) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership.

(3) For the purposes of subsection (2) the principal office of a company constituted under the law of a country or territory outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(4) Subsection (5) applies if a person to be served under sections 19 to 26 with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined under subsection (2)) as the one at which he or someone on his behalf will accept documents of the same description as that document.

(5) In relation to that document, that address shall be treated as his proper address for the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) in its application to this section, instead of that determined under subsection (2).

(6) Where the address of the person on whom a document is to be served under sections 19 to 26 cannot be ascertained after reasonable inquiry, the document shall be taken to be duly served if a copy of it is fixed in a conspicuous position on the premises which are alleged to have been used for the unlicensed sale of intoxicating liquor.

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(7) Where the name of the person on whom a document is to be served under sections 19 to 26 cannot be ascertained after reasonable inquiry, the document shall be taken to be duly served if it is served in accordance with this section using an appropriate description for the person concerned.

(8) This section does not apply to any document if rules of court make provision about its service.

28 Sections 19 to 27: interpretation

(1) In sections 19 to 27 and this section—

"closure notice" means a notice under section 19(1) or (2);

"closure order" means an order under section 21;

"intoxicating liquor" has the same meaning as in the Licensing Act 1964 (c. 26);

"notice" means notice in writing;

"premises" includes any land or other place (whether enclosed or otherwise);

"sale" includes exposure for sale; and

"unlicensed sale" means any sale which is in contravention of section 160 of the Act of 1964 (selling liquor without licence).

(2) In sections 19 to 27 "local authority" means—

(a) in relation to England—

(i) a county council;

(ii) a district council;

(iii) a London borough council;

(iv) the Common Council of the City of London in its capacity as a local authority;

(v) the Council of the Isles of Scilly;

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

(3) References in sections 19 to 27 to a person who has an interest in the premises are references to any person who is the owner, leaseholder or occupier of the premises.

Other provisions for combatting alcohol-related disorder

29 Confiscation of alcohol containers from young persons

In section 1(1) of the Confiscation of Alcohol (Young Persons) Act 1997 (c. 33) (things to be surrendered to a constable) after "intoxicating liquor", where it appears for the third time, there shall be inserted " or a container for such liquor (other than a sealed container) ".

30 Sale of intoxicating liquor to a person under eighteen

(1) In subsection (2) of section 169A of the Licensing Act 1964 (c. 26) (defence against charge of sale of intoxicating liquor to a person under eighteen) for the words from "to prove" to the end of the subsection there shall be substituted "to prove—

(a) that he believed that the person was not under eighteen; and

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(b) either that he had taken all reasonable steps to establish the person's age or that nobody could reasonably have suspected from his appearance that the person was under eighteen.

(2A) For the purposes of subsection (2) of this section a person shall be treated as having taken all reasonable steps to establish another person's age if he asks the other person for evidence of his age unless it is shown that the evidence was such that no reasonable person would have been convinced by it."

(2) The amendment made by this section does not apply to any sale of intoxicating liquor made before the coming into force of this section.

31 Enforcement of certain offences relating to under-age drinking

(1) In section 169C of the Licensing Act 1964 (purchase of intoxicating liquor by a person under eighteen) after subsection (1) there shall be inserted—

"(1A) Subsection (1) of this section does not apply where the person under eighteen buys or attempts to buy the intoxicating liquor at the request of—

(a) a constable, or

(b) an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985 (c. 72),

who is acting in the course of his duty."

(2) In section 169G of that Act (sending a person under eighteen to obtain intoxicating liquor) after subsection (3) there shall be inserted—

"(4) Subsection (1) of this section does not apply where the person under eighteen is sent by—

(a) a constable, or

(b) an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985 (c. 72),

who is acting in the course of his duty."

(3) After section 169H of that Act there shall be inserted—

"**169I Enforcement role for weights and measures authorities in relation to certain offences**

(1) It is the duty of every local weights and measures authority in England and Wales to enforce within their area the provisions of sections 169A and 169B of this Act.

(2) A local weights and measures authority shall have power to make, or to authorise any person to make on their behalf, such purchases of goods as may appear expedient for the purpose of determining whether or not the provisions of section 169A or 169B of this Act are being complied with.

(3) In this section "local weights and measures authority" has the meaning given by section 69 of the Weights and Measures Act 1985 (local weights and measures authorities)."

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32 Drunkenness or disorder on licensed premises

(1) In section 172(4) of the Licensing Act 1964 (c. 26) (licence holder not to permit drunkenness etc.: offences) for "level 2" there shall be substituted " level 3 ".

(2) After section 172 of that Act there shall be inserted—

"**172A Other persons in authority not to permit drunkenness etc.**

(1) A relevant person shall not permit drunkenness or any violent, quarrelsome or riotous conduct to take place in licensed premises.

(2) If a relevant person is charged under subsection (1) of this section with permitting drunkenness, and it is proved that any person was drunk in the licensed premises, the burden of proving that the relevant person and any persons employed by him took all reasonable steps for preventing drunkenness in the premises shall lie upon him.

(3) A relevant person shall not, in licensed premises, sell intoxicating liquor to a drunken person.

(4) If any person contravenes this section he shall be liable to a fine not exceeding level 3 on the standard scale.

(5) This section is without prejudice to the liability under section 172 of this Act of the holder of a justices' licence for acts or omissions of persons other than himself.

(6) In this section "relevant person" means any person (other than the holder of the justices' licence for the licensed premises concerned) who—

(a) in a case falling within subsection (1) of this section, works in the licensed premises in a capacity, whether paid or unpaid, which gives him authority to prevent the drunkenness or (as the case may be) conduct concerned;

(b) in a case falling within subsection (3) of this section, works in the licensed premises in a capacity, whether paid or unpaid, which gives him authority to sell the intoxicating liquor concerned."

(3) In section 174(1) of that Act (power to exclude drunkards, etc. from licensed premises) —

(a) after "justices' licence" there shall be inserted " or a relevant person "; and

(b) for "or", where it appears for the fourth time, there shall be substituted " and the holder of a justices' licence may refuse to admit to, or may expel from, the licensed premises any person ".

(4) In section 174(2) of that Act (offence of failing to leave licensed premises when requested if drunk or disorderly etc.) after "servant or" there shall be inserted " (as the case may be) the relevant person or any agent or servant of his or by ".

(5) In section 174(3) of that Act (requesting assistance from constable to exclude drunkards etc.) after "servant" there shall be inserted " or (as the case may be) a relevant person or any agent or servant of his ".

(6) After section 174(3) of that Act there shall be inserted—

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"(4) In this section "relevant person" means any person who works in licensed premises in a capacity, whether paid or unpaid, which gives him authority to prevent such drunkenness or such conduct as is mentioned in section 172A(1) of this Act."

(7) The amendment made by subsection (1) above shall not apply to offences committed before the coming into force of that subsection.

CHAPTER 3

OTHER PROVISIONS FOR COMBATTING CRIME AND DISORDER

Travel restrictions on drug trafficking offenders

33 Power to make travel restriction orders

(1) This section applies where—
- (a) a person ("the offender") has been convicted by any court of a post-commencement drug trafficking offence;
- (b) the court has determined that it would be appropriate to impose a sentence of imprisonment for that offence; and
- (c) the term of imprisonment which the court considers appropriate is a term of four years or more.

(2) It shall be the duty of the court, on sentencing the offender—
- (a) to consider whether it would be appropriate for the sentence for the offence to include the making of a travel restriction order in relation to the offender;
- (b) if the court determines that it is so appropriate, to make such travel restriction order in relation to the offender as the court thinks suitable in all the circumstances (including any other convictions of the offender for post-commencement drug trafficking offences in respect of which the court is also passing sentence); and
- (c) if the court determines that it is not so appropriate, to state its reasons for not making a travel restriction order.

(3) A travel restriction order is an order that prohibits the offender from leaving the United Kingdom at any time in the period which—
- (a) begins with the offender's release from custody; and
- (b) continues after that time for such period of not less than two years as may be specified in the order.

(4) A travel restriction order may contain a direction to the offender to deliver up, or cause to be delivered up, to the court any UK passport held by him; and where such a direction is given, the court shall send any passport delivered up in pursuance of the direction to the Secretary of State at such address as the Secretary of State may determine.

(5) Where the offender's passport is held by the Secretary of State by reason of the making of any direction contained in a travel restriction order, the Secretary of State (without prejudice to any other power or duty of his to retain the passport)—

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(a) may retain it for so long as the prohibition imposed by the order applies to the offender, and is not for the time being suspended; and

(b) shall not return the passport after the prohibition has ceased to apply, or when it is suspended, except where the passport has not expired and an application for its return is made to him by the offender.

(6) In this section "post-commencement"—

(a) except in relation to an offence that is a drug trafficking offence by virtue of an order under section 34(1)(c), means committed after the coming into force of this section; and

(b) in relation to an offence that is a drug trafficking offence by virtue of such an order, means committed after the coming into force of that order.

(7) References in this section to the offender's release from custody are references to his first release from custody after the imposition of the travel restriction order which is neither—

(a) a release on bail; nor

(b) a temporary release for a fixed period.

(8) In this section "UK passport" means a United Kingdom passport within the meaning of the Immigration Act 1971 (c. 77).

34 Meaning of "drug trafficking offence"

(1) In section 33 "drug trafficking offence" means any of the following offences (including one committed by aiding, abetting, counselling or procuring)—

(a) an offence under section 4(2) or (3) of the Misuse of Drugs Act 1971 (c. 38) (production and supply of controlled drugs);

(b) an offence under section 20 of that Act (assisting in or inducing commission outside United Kingdom of an offence punishable under a corresponding law);

(c) any such other offence under that Act as may be designated by order made by the Secretary of State;

(d) an offence under—

(i) section 50(2) or (3) of the Customs and Excise Management Act 1979 (c. 2) (improper importation),

(ii) section 68(2) of that Act (exportation), or

(iii) section 170 of that Act (fraudulent evasion),

in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 3 of the Misuse of Drugs Act 1971 (c. 38);

(e) an offence under section 1 of the Criminal Law Act 1977 (c. 45) or Article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983 1120 (N.I. 13)), or in Scotland at common law, of conspiracy to commit any of the offences in paragraphs (a) to (d) above;

(f) an offence under section 1 of the Criminal Attempts Act 1981 (c. 47) or Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983, or in Scotland at common law, of attempting to commit any of those offences; and

(g) an offence under section 19 of the Misuse of Drugs Act 1971 (c. 38) or at common law of inciting another person to commit any of those offences.

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(2) The power to make an order under subsection (1)(c) shall be exercisable by statutory instrument; and no such order shall be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.

(3) An order under subsection (1)(c) may provide, in relation to any offence designated by such an order, that it is to be treated as so designated only—

(a) for such purposes, and

(b) in cases where it was committed in such manner or in such circumstances,

as may be described in the order.

Modifications etc. (not altering text)

C5 S. 34(1)(g) modified (E.W. N.I.) (prosp.) Serious Crime Act 2007 (c. 27), ss. 63(1)(2), 94, **Sch. 6 para. 41**

35 Revocation and suspension of a travel restriction order

(1) Subject to the following provisions of this section, the court by which a travel restriction order has been made in relation to any person under section 33 may—

(a) on an application made by that person at any time which is—

(i) after the end of the minimum period, and

(ii) is not within three months after the making of any previous application for the revocation of the prohibition,

revoke the prohibition imposed by the order with effect from such date as the court may determine; or

(b) on an application made by that person at any time after the making of the order, suspend the prohibition imposed by the order for such period as the court may determine.

(2) A court to which an application for the revocation of the prohibition imposed on any person by a travel restriction order is made shall not revoke that prohibition unless it considers that it is appropriate to do so in all the circumstances of the case and having regard, in particular, to—

(a) that person's character;

(b) his conduct since the making of the order; and

(c) the offences of which he was convicted on the occasion on which the order was made.

(3) A court shall not suspend the prohibition imposed on any person by a travel restriction order for any period unless it is satisfied that there are exceptional circumstances, in that person's case, that justify the suspension on compassionate grounds of that prohibition for that period.

(4) In making any determination on an application for the suspension of the prohibition imposed on any person by a travel restriction order, a court (in addition to considering the matters mentioned in subsection (3)) shall have regard to—

(a) that person's character;

(b) his conduct since the making of the order;

(c) the offences of which he was convicted on the occasion on which the order was made; and

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(d) any other circumstances of the case that the court considers relevant.

(5) Where the prohibition imposed on any person by a travel restriction order is suspended, it shall be the duty of that person—

(a) to be in the United Kingdom when the period of the suspension ends; and

(b) if the order contains a direction under section 33(4), to surrender, before the end of that period, any passport returned or issued to that person, in respect of the suspension, by the Secretary of State;

and a passport that is required to be surrendered under paragraph (b) shall be surrendered to the Secretary of State in such manner or by being sent to such address as the Secretary of State may direct at the time when he returns or issues it.

(6) Where the prohibition imposed on any person by a travel restriction order is suspended for any period under this section, the end of the period of the prohibition imposed by the order shall be treated (except for the purposes of subsection (7)) as postponed (or, if there has been one or more previous suspensions, further postponed) by the length of the period of suspension.

(7) In this section "the minimum period"—

(a) in the case of a travel restriction order imposing a prohibition for a period of four years or less, means the period of two years beginning at the time when the period of the prohibition began;

(b) in the case of a travel restriction order imposing a prohibition of more than four years but less than ten years, means the period of four years beginning at that time; and

(c) in any other case, means the period of five years beginning at that time.

36 Offences of contravening orders

(1) A person who leaves the United Kingdom at a time when he is prohibited from leaving it by a travel restriction order is guilty of an offence and 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.

(2) A person who is not in the United Kingdom at the end of a period during which a prohibition imposed on him by a travel restriction order has been suspended shall be guilty of an offence and 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.

(3) A person who fails to comply with—

(a) a direction contained in a travel restriction order to deliver up a passport to a court, or to cause such a passport to be delivered up, or

(b) any duty imposed on him by section 35(5)(b) to surrender a passport to the Secretary of State,

shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

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(4) This section has effect subject to section 37(3).

37 Saving for powers to remove a person from the United Kingdom

(1) A travel restriction order made in relation to any person shall not prevent the exercise in relation to that person of any prescribed removal power.

(2) A travel restriction order made in relation to any person shall remain in force, notwithstanding the exercise of any prescribed removal power in relation to that person, except in so far as either—
  (a) the Secretary of State by order otherwise provides; or
  (b) the travel restriction order is suspended or revoked under section 35.

(3) No person shall be guilty of an offence under section 36 in respect of any act or omission required of him by an obligation imposed in the exercise of a prescribed removal power.

(4) In this section "a prescribed removal power" means any such power conferred by or under any enactment as—
  (a) consists in a power to order or direct the removal of a person from the United Kingdom; and
  (b) is designated for the purposes of this section by an order made by the Secretary of State.

(5) An order under subsection (2)(a) or (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(6) An order under subsection (2)(a)—
  (a) may make different provision for different cases; and
  (b) may contain such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.

(7) References in this section to a person's removal from the United Kingdom include references to his deportation, extradition, repatriation, delivery up or other transfer to a place outside the United Kingdom.

Commencement Information

I3 S. 37 wholly in force at 1.4.2002; s. 37 not in force at Royal Assent see s. 138; s. 37 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(2)(b); s. 37 in force at 1.4.2002 insofar as not already in force by S.I. 2002/344, **art. 3** (with art. 4)

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VALID FROM 01/09/2005

Use of controlled drugs

38 Permitting use of controlled drugs on premises

For paragraph (d) of section 8 of the Misuse of Drugs Act 1971 (c. 38) (offence of knowingly permitting cannabis, cannabis resin or prepared opium to be smoked on premises) there shall be substituted—

"(d) administering or using a controlled drug which is unlawfully in any person's possession at or immediately before the time when it is administered or used."

Intimidating, harming and threatening witnesses etc.

39 Intimidation of witnesses

(1) A person commits an offence if—

(a) he does an act which intimidates, and is intended to intimidate, another person ("the victim");

(b) he does the act—

(i) knowing or believing that the victim is or may be a witness in any relevant proceedings; and

(ii) intending, by his act, to cause the course of justice to be obstructed, perverted or interfered with;

and

(c) the act is done after the commencement of those proceedings.

(2) For the purposes of subsection (1) it is immaterial—

(a) whether or not the act that is done is done in the presence of the victim;

(b) whether that act is done to the victim himself or to another person; and

(c) whether or not the intention to cause the course of justice to be obstructed, perverted or interfered with is the predominating intention of the person doing the act in question.

(3) If, in proceedings against a person for an offence under this section, it is proved—

(a) that he did any act that intimidated, and was intended to intimidate, another person, and

(b) that he did that act knowing or believing that that other person was or might be a witness in any relevant proceedings that had already commenced,

he shall be presumed, unless the contrary is shown, to have done the act with the intention of causing the course of justice to be obstructed, perverted or interfered with.

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

(a) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both;

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

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(5) References in this section to a witness, in relation to any proceedings, include references to a person who provides, or is able to provide, any information or any document or other thing which might be used as evidence in those proceedings or which (whether or not admissible as evidence in those proceedings)—
  (a) might tend to confirm evidence which will be or might be admitted in those proceedings;
  (b) might be referred to in evidence given in those proceedings by another witness; or
  (c) might be used as the basis for any cross examination in the course of those proceedings.

(6) References in this section to doing an act include references to issuing any threat (whether against a person or his finances or property or otherwise), or making any other statement.

(7) This section is in addition to, and not in derogation of, any offence subsisting at common law.

40 Harming witnesses etc.

(1) A person commits an offence if, in circumstances falling within subsection (2)—
  (a) he does an act which harms, and is intended to harm, another person; or
  (b) intending to cause another person to fear harm, he threatens to do an act which would harm that other person.

(2) The circumstances fall within this subsection if—
  (a) the person doing or threatening to do the act does so knowing or believing that some person (whether or not the person harmed or threatened or the person against whom harm is threatened) has been a witness in relevant proceedings; and
  (b) he does or threatens to do that act because of that knowledge or belief.

(3) If, in proceedings against a person for an offence under this section, it is proved that, within the relevant period—
  (a) he did an act which harmed, and was intended to harm, another person, or
  (b) intending to cause another person to fear harm, he threatened to do an act which would harm that other person,

  and that he did the act, or (as the case may be) threatened to do the act, with the knowledge or belief required by paragraph (a) of subsection (2), he shall be presumed, unless the contrary is shown, to have done the act, or (as the case may be) threatened to do the act, because of that knowledge or belief.

(4) For the purposes of this section it is immaterial—
  (a) whether or not the act that is done or threatened, or the threat that is made, is or would be done or is made in the presence of the person who is or would be harmed or of the person who is threatened;
  (b) whether or not the motive mentioned in subsection (2)(b) is the predominating motive for the act or threat; and
  (c) whether the harm that is done or threatened is physical or financial or is harm to a person or to his property.

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

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

(6) In this section "the relevant period", in relation to an act done, or threat made, with the knowledge or belief that a person has been a witness in any relevant proceedings, means the period that begins with the commencement of those proceedings and ends one year after they are finally concluded.

(7) References in this section to a witness, in relation to any proceedings, include references to a person who has provided any information or any document or other thing which was or might have been used as evidence in those proceedings or which (whether or not it was admissible as evidence in those proceedings)—
(a) tended to confirm or might have tended to confirm any evidence which was or could have been given in those proceedings;
(b) was or might have been referred to in evidence given in those proceedings by another witness; or
(c) was or might have been used as the basis for any cross examination in the course of those proceedings.

(8) This section is in addition to, and not in derogation of, any offence subsisting at common law.

41 Relevant proceedings

(1) A reference in section 39 or 40 to relevant proceedings is a reference to any proceedings in or before the Court of Appeal, the High Court, the Crown Court or any county court or magistrates' court which—
(a) are not proceedings for an offence; and
(b) were commenced after the coming into force of that section.

(2) For the purposes of any reference in section 39 or 40 or this section to the commencement of any proceedings relevant proceedings are commenced (subject to subsection (5)) at the earliest time at which one of the following occurs—
(a) an information is laid or application, claim form, complaint, petition, summons or other process made or issued for the purpose of commencing the proceedings;
(b) any other step is taken by means of which the subject matter of the proceedings is brought for the first time (whether as part of the proceedings or in anticipation of them) before the court.

(3) For the purposes of any reference in section 39 or 40 to the time when any proceedings are finally concluded, relevant proceedings are finally concluded (subject to subsection (4))—
(a) if proceedings for an appeal against, or an application for a review of, those proceedings or of any decision taken in those proceedings are brought or is made, at the time when proceedings on that appeal or application are finally concluded;
(b) if the proceedings are withdrawn or discontinued, at the time when they are withdrawn or discontinued; and

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(c) in any other case, when the court in or before which the proceedings are brought finally disposes of all the matters arising in those proceedings.

(4) Relevant proceedings shall not be taken to be finally concluded by virtue of subsection (3)(a) where—

(a) the matters to which the appeal or application relate are such that the proceedings in respect of which it is brought or made continue or resume after the making of any determination on that appeal or application; or

(b) a determination made on that appeal or application requires those proceedings to continue or to be resumed.

(5) Where, after having appeared to be finally concluded, any relevant proceedings continue by reason of—

(a) the giving of permission to bring an appeal after a fixed time for appealing has expired,

(b) the lifting of any stay in the proceedings,

(c) the setting aside, without an appeal, of any judgment or order, or

(d) the revival of any discontinued proceedings,

sections 39 and 40 and this section shall have effect as if the proceedings had concluded when they appeared to, but as if the giving of permission, the lifting of the stay, the setting aside of the judgment or order or, as the case may be, the revival of the discontinued proceedings were the commencement of new relevant proceedings.

Further provision about intimidation etc.

42 Police directions stopping the harassment etc of a person in his home

(1) Subject to the following provisions of this section, a constable who is at the scene may give a direction under this section to any person if—

(a) that person is present outside or in the vicinity of any premises that are used by any individual ("the resident") as his dwelling;

(b) that constable believes, on reasonable grounds, that that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual (whether or not one who uses the premises as his dwelling), or of persuading the resident or such another individual—

(i) that he should not do something that he is entitled or required to do; or

(ii) that he should do something that he is not under any obligation to do;

and

(c) that constable also believes, on reasonable grounds, that the presence of that person (either alone or together with that of any other persons who are also present)—

(i) amounts to, or is likely to result in, the harassment of the resident; or

(ii) is likely to cause alarm or distress to the resident.

(2) A direction under this section is a direction requiring the person to whom it is given to do all such things as the constable giving it may specify as the things he considers necessary to prevent one or both of the following—

(a) the harassment of the resident; or

(b) the causing of any alarm or distress to the resident.

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(3) A direction under this section may be given orally; and where a constable is entitled to give a direction under this section to each of several persons outside, or in the vicinity of, any premises, he may give that direction to those persons by notifying them of his requirements either individually or all together.

(4) The requirements that may be imposed by a direction under this section include a requirement to leave the vicinity of the premises in question (either immediately or after a specified period of time).

(5) A direction under this section may make exceptions to any requirement imposed by the direction, and may make any such exception subject to such conditions as the constable giving the direction thinks fit; and those conditions may include—
   (a) conditions as to the distance from the premises in question at which, or otherwise as to the location where, persons who do not leave their vicinity must remain; and
   (b) conditions as to the number or identity of the persons who are authorised by the exception to remain in the vicinity of those premises.

(6) The power of a constable to give a direction under this section shall not include—
   (a) any power to give a direction at any time when there is a more senior-ranking police officer at the scene; or
   (b) any power to direct a person to refrain from conduct that is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (right peacefully to picket a work place);

   but it shall include power to vary or withdraw a direction previously given under this section.

(7) Any person who knowingly contravenes a direction given to him under this section shall be guilty of an offence and 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.

(8) A constable in uniform may arrest without warrant any person he reasonably suspects is committing an offence under this section.

(9) In this section "dwelling" has the same meaning as in Part 1 of the Public Order Act 1986 (c. 64).

VALID FROM 01/07/2005

[F3 42A Offence of harassment etc. of a person in his home

(1) A person commits an offence if—
   (a) that person is present outside or in the vicinity of any premises that are used by any individual ("the resident") as his dwelling;
   (b) that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual (whether or not one who uses the premises as his dwelling), or of persuading the resident or such another individual—
      (i) that he should not do something that he is entitled or required to do; or

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(ii) that he should do something that he is not under any obligation to do;

(c) that person—

(i) intends his presence to amount to the harassment of, or to cause alarm or distress to, the resident; or

(ii) knows or ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, the resident; and

(d) the presence of that person—

(i) amounts to the harassment of, or causes alarm or distress to, any person falling within subsection (2); or

(ii) is likely to result in the harassment of, or to cause alarm or distress to, any such person.

(2) A person falls within this subsection if he is—

(a) the resident,

(b) a person in the resident's dwelling, or

(c) a person in another dwelling in the vicinity of the resident's dwelling.

(3) The references in subsection (1)(c) and (d) to a person's presence are references to his presence either alone or together with that of any other persons who are also present.

(4) For the purposes of this section a person (A) ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, a resident if a reasonable person in possession of the same information would think that A's presence was likely to have that effect.

(5) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.

(6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (5) to 51 weeks is to be read as a reference to 6 months.

(7) In this section "dwelling" has the same meaning as in Part 1 of the Public Order Act 1986.**]**

Textual Amendments

F3 S. 42A inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 126(1)**, 178; S.I. 2005/1521, **art. 3(1)(m)** (subject to art. 3(4)(5))

43 Malicious communications

(1) In subsection (1) of section 1 of the Malicious Communications Act 1988 (c. 27) (offence of sending letters and other articles with intent to cause distress or anxiety)—

(a) in paragraph (a), for "letter or other article" there shall be substituted " letter, electronic communication or article of any description "; and

(b) in paragraph (b), for the word "other article" there shall be substituted " article or electronic communication ".

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(2) In subsection (2) of that section (defence of making a threat in the belief that it was a proper way of reinforcing a demand and that there were reasonable grounds for making that demand)—

(a) in paragraph (a), for "which he believed he had reasonable grounds for making" there shall be substituted " made by him on reasonable grounds "; and

(b) in paragraph (b), after "believed" there shall be inserted " , and had reasonable grounds for believing, ".

(3) After that subsection there shall be inserted—

"(2A) In this section "electronic communication" includes—

(a) any oral or other communication by means of a telecommunication system (within the meaning of the Telecommunications Act 1984 (c. 12)); and

(b) any communication (however sent) that is in electronic form."

(4) In subsection (3) of that section (definition of "send")—

(a) after "delivering" there shall be inserted " or transmitting "; and

(b) for "or delivered" there shall be substituted " , delivered or transmitted ".

(5) In subsection (5) of that section (penalty for offence), for "a fine not exceeding level 4 on the standard scale" there shall be substituted " imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both ".

(6) Subsection (5) does not affect the penalty for an offence committed before the day on which this Act is passed.

44 Collective harrassment

(1) In section 7 of the Protection from Harassment Act 1997 (c. 40) (interpretation of sections 1 to 5), there shall be inserted the following subsection—

"(3A) A person's conduct on any occasion shall be taken, if aided, abetted, counselled or procured by another—

(a) to be conduct on that occasion of the other (as well as conduct of the person whose conduct it is); and

(b) to be conduct in relation to which the other's knowledge and purpose, and what he ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring."

(2) This section has effect in relation to any aiding, abetting, counselling or procuring that takes place after the coming into force of this section.

45 Addresses of directors and secretaries of companies

(1) The Companies Act 1985 (c. 6) shall be amended as follows.

(2) After section 723A there shall be inserted—

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"723B Confidentiality orders

(1) Subject to the provisions of this section, an individual may make an application under this section to the Secretary of State where the condition in subsection (2) is satisfied.

(2) That condition is that the individual—
- (a) is or proposes to become a director, secretary or permanent representative of a relevant company; and
- (b) considers that the availability for inspection by members of the public of particulars of his usual residential address creates, or (if an order is not made under this section) is likely to create, a serious risk that he or a person who lives with him will be subjected to violence or intimidation.

(3) Where, on an application made by an individual under this section, the Secretary of State is satisfied that the availability for inspection by members of the public of particulars of the individual's usual residential address creates, or (if an order is not made under this section) is likely to create, a serious risk that the individual, or a person who lives with him, will be subjected to violence or intimidation, he shall make an order under this section ("a confidentiality order") in relation to him.

(4) Otherwise, he shall dismiss the application.

(5) An application under this section shall specify, in relation to each company of which the individual is a director, secretary or permanent representative, an address satisfying such conditions as may be prescribed.

(6) The Secretary of State shall give the applicant notice of his decision under subsection (3) or (4); and a notice under this subsection shall be given within the prescribed period after the making of the decision and contain such information as may be prescribed.

(7) Regulations may make provision about applications for confidentiality orders; and the regulations may in particular—
- (a) require the payment, on the making of an application, of such fees as may be specified in the regulations;
- (b) make provision about the form and manner in which applications are to be made;
- (c) provide that applications shall contain such information, and be accompanied by such evidence, as the Secretary of State may from time to time direct.

(8) Regulations may make provision—
- (a) about the manner in which determinations are to be made under subsection (3) or (4);
- (b) for questions to be referred to such persons as the Secretary of State thinks fit for the purposes of such determinations;
- (c) about the review of such determinations;
- (d) about the period for which confidentiality orders shall remain in force and the renewal of confidentiality orders.

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(9) The Secretary of State may at any time revoke a confidentiality order if he is satisfied that such conditions as may be prescribed are satisfied.

(10) Regulations may make provision about the manner in which a determination under subsection (9) is to be made and notified to the individual concerned.

723C Effect of confidentiality orders

(1) At any time when a confidentiality order is in force in relation to an individual—
  (a) section 709(1) shall not apply to so much of any record kept by the registrar as contains information which is recorded as particulars of the individual's usual residential address that were contained in a document delivered to the registrar after the order came into force;
  (b) section 364 shall have effect in relation to each affected company of which the individual is a director or secretary as if the reference in subsection (4)(a) of that section to the individual's usual residential address were a reference to the address for the time being specified by the individual in relation to that company under section 723B(5) or subsection (7) below.

(2) Regulations may make provision about the inspection and copying of confidential records, and such provision may include—
  (a) provision as to the persons by whom, and the circumstances in which, confidential records may be inspected or copies taken of such records;
  (b) provision under which the registrar may be required to provide certified copies of, or of extracts from, such records.

(3) Provision under subsection (2) may include provision—
  (a) for persons of a prescribed description to be entitled to apply to the court for authority to inspect or take copies of confidential records;
  (b) as to the criteria to be used by the court in determining whether an authorisation should be given.

(4) Regulations may make provision for restricting the persons to whom, and the purposes for which, relevant information may be disclosed.

(5) In subsection (4) "relevant information" means information, relating to the usual residential address of an individual in relation to whom a confidentiality order is in force, which has been obtained in prescribed circumstances.

(6) Regulations may—
  (a) provide that, where a confidentiality order is in force in relation to an individual who is a director or secretary of a company, subsections (3) and (5) of section 288 shall not apply in relation to so much of the register kept by the company under that section as contains particulars of the usual residential address of that individual ("the protected part of the register"); and
  (b) make provision as to the persons by whom the protected part of the register may be inspected and the conditions (which may include conditions as to the payment of a fee) on which they may inspect it.

(7) Regulations may make provision—

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(a) requiring any individual in relation to whom a confidentiality order is in force to specify in the prescribed manner, in relation to each company of which he becomes a director, secretary or permanent representative at a time when the order is in force, an address satisfying such conditions as may be prescribed;

(b) as to the manner in which the address specified in relation to a company under section 723B(5) or this subsection may be changed.

(8) A company is an affected company for the purposes of subsection (1) if—

(a) it is required to deliver annual returns in accordance with section 363; and

(b) the individual has specified an address in relation to it under section 723B(5) or subsection (7) above.

723D Construction of sections 723B and 723C

(1) In section 723B "relevant company" means—

(a) a company formed and registered under this Act or an existing company; or

(b) an oversea company.

(2) For the purposes of sections 723B and 723C, an individual is a permanent representative of a company if—

(a) the company is a company to which section 690A applies; and

(b) he is authorised to represent the company as a permanent representative of the company for the business of one or more of its branches in Great Britain.

(3) In section 723C "confidential records" means so much of any records kept by the registrar for the purposes of the Companies Acts as contains information—

(a) which relates to an individual in relation to whom a confidentiality order is in force; and

(b) is recorded as particulars of the individual's usual residential address that were contained in a document delivered to the registrar after the order came into force.

(4) In sections 723B and 723C—

"confidentiality order" means an order under section 723B;

"the court" means such court as may be specified in regulations;

"director" and "secretary", in relation to an oversea company, have the same meanings as in Chapter 1 of Part 23 of this Act;

"document" has the same meaning as in Part 24 of this Act;

"prescribed" means prescribed by regulations.

(5) Section 715A(2) applies in relation to sections 723B and 723C as it applies in relation to Part 24 of this Act.

(6) Regulations may provide that in determining for the purposes of sections 723B and 723C whether a document has been delivered after the coming into force of a confidentiality order, any document delivered to the registrar after the latest time permitted for the delivery of that document shall be deemed to have been delivered at that time.

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(7) For the purposes of section 723B(2)(a) and subsection (2) above it is immaterial whether or not the company in question has already been incorporated or become a relevant company or a company to which section 690A applies at the time of the application under section 723B.

(8) For the purposes of section 723C(1) and subsection (3) above, it is immaterial whether the record in question consists in the original document concerned.

723E Sections 723B and 723C: offences

(1) Regulations may provide—
  (a) that any person who in an application under section 723B makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, shall be guilty of an offence;
  (b) that any person who discloses information in contravention of regulations under section 723C(4) shall be guilty of an offence.

(2) Regulations may provide that a person guilty of an offence under subsection (1) shall be liable—
  (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both; and
  (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum, or to both.

723F Regulations under sections 723B to 723E

(1) In sections 723B to 723E "regulations" means regulations made by the Secretary of State.

(2) Any power of the Secretary of State to make regulations under any of those sections shall be exercisable by statutory instrument.

(3) Regulations under sections 723B to 723E—
  (a) may make different provision for different cases;
  (b) may contain such incidental, supplemental, consequential and transitional provision, as the Secretary of State thinks fit.

(4) The provision that may be made by virtue of subsection (3)(b) includes provision repealing or modifying any enactment.

(5) No regulations shall be made under any of sections 723B to 723E unless a draft of the instrument containing them has been laid before Parliament and approved by a resolution of each House."

(3) In section 288 (register of directors and secretaries), after subsection (6) there shall be inserted—

"(7) Subsections (3) and (5) are subject to section 723B."

(4) In section 709(1) (inspection, etc of records kept by the registrar), at the beginning there shall be inserted " Subject to section 723B, ".

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Commencement Information

I4 S. 45 wholly in force at 2.4.2002; s. 45 not in force at Royal Assent see s. 138; s. 45 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(2)(c); s. 45 in force at 2.4.2002 insofar as not already in force by S.I. 2002/533, **art. 3**

Advertisements relating to prostitution

46 Placing of advertisement relating to prostitution

(1) A person commits an offence if—

(a) he places on, or in the immediate vicinity of, a public telephone an advertisement relating to prostitution, and

(b) he does so with the intention that the advertisement should come to the attention of any other person or persons.

(2) For the purposes of this section, an advertisement is an advertisement relating to prostitution if it—

(a) is for the services of a prostitute, whether male or female; or

(b) indicates that premises are premises at which such services are offered.

(3) In any proceedings for an offence under this section, any advertisement which a reasonable person would consider to be an advertisement relating to prostitution shall be presumed to be such an advertisement unless it is shown not to be.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or both.

(5) In this section—

"public telephone" means—

(a) any telephone which is located in a public place and made available for use by the public, or a section of the public, and

(b) where such a telephone is located in or on, or attached to, a kiosk, booth, acoustic hood, shelter or other structure, that structure; and

"public place" means any place to which the public have or are permitted to have access, whether on payment or otherwise, other than—

(a) any place to which children under the age of 16 years are not permitted to have access, whether by law or otherwise, and

(b) any premises which are wholly or mainly used for residential purposes.

(6) [F4] . . . . . .

Textual Amendments

F4 S. 46(6) repealed (1.10.2002) by Police Reform Act 2002 (c. 30), s. 107, **Sch. 8**; S.I. 2002/2306, **art. 2(g)(iii)(j)**

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47 Application of section 46 by order to public structures

(1) The Secretary of State may, by order, provide for section 46 to apply in relation to any public structure of a description specified in the order as it applies in relation to a public telephone.

(2) In this section—

"public structure" means any structure that—

(a) is provided as an amenity for the use of the public or a section of the public, and

(b) is located in a public place; and

"public place" and "public telephone" have the same meaning as in section 46.

(3) At any time when an order under this section has effect, the reference in section 24(2) of the Police and Criminal Evidence Act 1984 (c. 60) to an offence under section 46 of this Act shall be construed as including an offence under that section by virtue of the order.

(4) The power to make an order under this section is exercisable by statutory instrument.

(5) No order may be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

Local child curfew schemes

48 Extension to older children

In section 14(2) of the Crime and Disorder Act 1998 (c. 37) (maximum age of children to be subject to local child curfew schemes) for "under 10" there shall be substituted " under 16 ".

49 Power for police to make schemes

(1) Section 14 of the Crime and Disorder Act 1998 (local child curfew schemes) shall be amended as follows.

(2) In subsection (1) (power to make schemes)—

(a) after "local authority" there shall be inserted " or a chief officer of police "; and

(b) after "the authority", in each place where it appears, there shall be inserted " or (as the case may be) the officer ".

(3) After subsection (3) there shall be inserted—

"(3A) Before making a local child curfew scheme, a chief officer of police shall consult—

(a) every local authority any part of whose area lies within the area to be specified; and

(b) such other persons or bodies as he considers appropriate."

(4) For subsection (4) there shall be substituted—

"(4) A local child curfew scheme shall, if made by a local authority, be made under the common seal of the authority.

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(4A) A local child curfew scheme shall not have effect until it is confirmed by the Secretary of State."

(5) In subsection (7)(b) after "authority" there shall be inserted " or (as the case may be) the chief officer of police ".

PART 2

POWERS OF SEIZURE

Modifications etc. (not altering text)

C6 Pt. 2 extended (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 para. 24(a)**; S.I. 2002/2750, **art. 2**
Pt. 2 extended (N.I.) (8.4.2003) by Police (Northern Ireland) Act 2003 (c. 6), ss. 30, 31, **Sch. 2 Pt. 1 para. 10(1)(a)**

VALID FROM 01/04/2003

Additional powers of seizure

50 Additional powers of seizure from premises

(1) Where—

(a) a person who is lawfully on any premises finds anything on those premises that he has reasonable grounds for believing may be or may contain something for which he is authorised to search on those premises,

(b) a power of seizure to which this section applies or the power conferred by subsection (2) would entitle him, if he found it, to seize whatever it is that he has grounds for believing that thing to be or to contain, and

(c) in all the circumstances, it is not reasonably practicable for it to be determined, on those premises—

(i) whether what he has found is something that he is entitled to seize, or

(ii) the extent to which what he has found contains something that he is entitled to seize,

that person's powers of seizure shall include power under this section to seize so much of what he has found as it is necessary to remove from the premises to enable that to be determined.

(2) Where—

(a) a person who is lawfully on any premises finds anything on those premises ("the seizable property") which he would be entitled to seize but for its being comprised in something else that he has (apart from this subsection) no power to seize,

(b) the power under which that person would have power to seize the seizable property is a power to which this section applies, and

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(c) in all the circumstances it is not reasonably practicable for the seizable property to be separated, on those premises, from that in which it is comprised,

that person's powers of seizure shall include power under this section to seize both the seizable property and that from which it is not reasonably practicable to separate it.

(3) The factors to be taken into account in considering, for the purposes of this section, whether or not it is reasonably practicable on particular premises for something to be determined, or for something to be separated from something else, shall be confined to the following—

(a) how long it would take to carry out the determination or separation on those premises;

(b) the number of persons that would be required to carry out that determination or separation on those premises within a reasonable period;

(c) whether the determination or separation would (or would if carried out on those premises) involve damage to property;

(d) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation; and

(e) in the case of separation, whether the separation—

(i) would be likely, or

(ii) if carried out by the only means that are reasonably practicable on those premises, would be likely,

to prejudice the use of some or all of the separated seizable property for a purpose for which something seized under the power in question is capable of being used.

(4) Section 19(6) of the 1984 Act and Article 21(6) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (powers of seizure not to include power to seize anything that a person has reasonable grounds for believing is legally privileged) shall not apply to the power of seizure conferred by subsection (2).

(5) This section applies to each of the powers of seizure specified in Part 1 of Schedule 1.

(6) Without prejudice to any power conferred by this section to take a copy of any document, nothing in this section, so far as it has effect by reference to the power to take copies of documents under section 28(2)(b) of the Competition Act 1998 (c. 41), shall be taken to confer any power to seize any document.

51 Additional powers of seizure from the person

(1) Where—

(a) a person carrying out a lawful search of any person finds something that he has reasonable grounds for believing may be or may contain something for which he is authorised to search,

(b) a power of seizure to which this section applies or the power conferred by subsection (2) would entitle him, if he found it, to seize whatever it is that he has grounds for believing that thing to be or to contain, and

(c) in all the circumstances it is not reasonably practicable for it to be determined, at the time and place of the search—

(i) whether what he has found is something that he is entitled to seize, or

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(ii) the extent to which what he has found contains something that he is entitled to seize,

that person's powers of seizure shall include power under this section to seize so much of what he has found as it is necessary to remove from that place to enable that to be determined.

(2) Where—

(a) a person carrying out a lawful search of any person finds something ("the seizable property") which he would be entitled to seize but for its being comprised in something else that he has (apart from this subsection) no power to seize,

(b) the power under which that person would have power to seize the seizable property is a power to which this section applies, and

(c) in all the circumstances it is not reasonably practicable for the seizable property to be separated, at the time and place of the search, from that in which it is comprised,

that person's powers of seizure shall include power under this section to seize both the seizable property and that from which it is not reasonably practicable to separate it.

(3) The factors to be taken into account in considering, for the purposes of this section, whether or not it is reasonably practicable, at the time and place of a search, for something to be determined, or for something to be separated from something else, shall be confined to the following—

(a) how long it would take to carry out the determination or separation at that time and place;

(b) the number of persons that would be required to carry out that determination or separation at that time and place within a reasonable period;

(c) whether the determination or separation would (or would if carried out at that time and place) involve damage to property;

(d) the apparatus or equipment that it would be necessary or appropriate to use for the carrying out of the determination or separation; and

(e) in the case of separation, whether the separation—

(i) would be likely, or

(ii) if carried out by the only means that are reasonably practicable at that time and place, would be likely,

to prejudice the use of some or all of the separated seizable property for a purpose for which something seized under the power in question is capable of being used.

(4) Section 19(6) of the 1984 Act and Article 21(6) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (powers of seizure not to include power to seize anything a person has reasonable grounds for believing is legally privileged) shall not apply to the power of seizure conferred by subsection (2).

(5) This section applies to each of the powers of seizure specified in Part 2 of Schedule 1.

52 Notice of exercise of power under s. 50 or 51

(1) Where a person exercises a power of seizure conferred by section 50, it shall (subject to subsections (2) and (3)) be his duty, on doing so, to give to the occupier of the premises a written notice—

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(a) specifying what has been seized in reliance on the powers conferred by that section;
(b) specifying the grounds on which those powers have been exercised;
(c) setting out the effect of sections 59 to 61;
(d) specifying the name and address of the person to whom notice of an application under section 59(2) to the appropriate judicial authority in respect of any of the seized property must be given; and
(e) specifying the name and address of the person to whom an application may be made to be allowed to attend the initial examination required by any arrangements made for the purposes of section 53(2).

(2) Where it appears to the person exercising on any premises a power of seizure conferred by section 50—
(a) that the occupier of the premises is not present on the premises at the time of the exercise of the power, but
(b) that there is some other person present on the premises who is in charge of the premises,

subsection (1) of this section shall have effect as if it required the notice under that subsection to be given to that other person.

(3) Where it appears to the person exercising a power of seizure conferred by section 50 that there is no one present on the premises to whom he may give a notice for the purposes of complying with subsection (1) of this section, he shall, before leaving the premises, instead of complying with that subsection, attach a notice such as is mentioned in that subsection in a prominent place to the premises.

(4) Where a person exercises a power of seizure conferred by section 51 it shall be his duty, on doing so, to give a written notice to the person from whom the seizure is made—
(a) specifying what has been seized in reliance on the powers conferred by that section;
(b) specifying the grounds on which those powers have been exercised;
(c) setting out the effect of sections 59 to 61;
(d) specifying the name and address of the person to whom notice of any application under section 59(2) to the appropriate judicial authority in respect of any of the seized property must be given; and
(e) specifying the name and address of the person to whom an application may be made to be allowed to attend the initial examination required by any arrangements made for the purposes of section 53(2).

(5) The Secretary of State may by regulations made by statutory instrument, after consultation with the Scottish Ministers, provide that a person who exercises a power of seizure conferred by section 50 shall be required to give a notice such as is mentioned in subsection (1) of this section to any person, or send it to any place, described in the regulations.

(6) Regulations under subsection (5) may make different provision for different cases.

(7) A statutory instrument containing regulations under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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Return or retention of seized property

VALID FROM 01/04/2003

53 Examination and return of property seized under s. 50 or 51

(1) This section applies where anything has been seized under a power conferred by section 50 or 51.

(2) It shall be the duty of the person for the time being in possession of the seized property in consequence of the exercise of that power to secure that there are arrangements in force which (subject to section 61) ensure—

(a) that an initial examination of the property is carried out as soon as reasonably practicable after the seizure;

(b) that that examination is confined to whatever is necessary for determining how much of the property falls within subsection (3);

(c) that anything which is found, on that examination, not to fall within subsection (3) is separated from the rest of the seized property and is returned as soon as reasonably practicable after the examination of all the seized property has been completed; and

(d) that, until the initial examination of all the seized property has been completed and anything which does not fall within subsection (3) has been returned, the seized property is kept separate from anything seized under any other power.

(3) The seized property falls within this subsection to the extent only—

(a) that it is property for which the person seizing it had power to search when he made the seizure but is not property the return of which is required by section 54;

(b) that it is property the retention of which is authorised by section 56; or

(c) that it is something which, in all the circumstances, it will not be reasonably practicable, following the examination, to separate from property falling within paragraph (a) or (b).

(4) In determining for the purposes of this section the earliest practicable time for the carrying out of an initial examination of the seized property, due regard shall be had to the desirability of allowing the person from whom it was seized, or a person with an interest in that property, an opportunity of being present or (if he chooses) of being represented at the examination.

(5) In this section, references to whether or not it is reasonably practicable to separate part of the seized property from the rest of it are references to whether or not it is reasonably practicable to do so without prejudicing the use of the rest of that property, or a part of it, for purposes for which (disregarding the part to be separated) the use of the whole or of a part of the rest of the property, if retained, would be lawful.

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VALID FROM 01/04/2003

54 Obligation to return items subject to legal privilege

(1) If, at any time after a seizure of anything has been made in exercise of a power of seizure to which this section applies—

(a) it appears to the person for the time being having possession of the seized property in consequence of the seizure that the property—

(i) is an item subject to legal privilege, or

(ii) has such an item comprised in it,

and

(b) in a case where the item is comprised in something else which has been lawfully seized, it is not comprised in property falling within subsection (2),

it shall be the duty of that person to secure that the item is returned as soon as reasonably practicable after the seizure.

(2) Property in which an item subject to legal privilege is comprised falls within this subsection if—

(a) the whole or a part of the rest of the property is property falling within subsection (3) or property the retention of which is authorised by section 56; and

(b) in all the circumstances, it is not reasonably practicable for that item to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that item) its use, if retained, would be lawful.

(3) Property falls within this subsection to the extent that it is property for which the person seizing it had power to search when he made the seizure, but is not property which is required to be returned under this section or section 55.

(4) This section applies—

(a) to the powers of seizure conferred by sections 50 and 51;

(b) to each of the powers of seizure specified in Parts 1 and 2 of Schedule 1; and

(c) to any power of seizure (not falling within paragraph (a) or (b)) conferred on a constable by or under any enactment, including an enactment passed after this Act.

VALID FROM 01/04/2003

55 Obligation to return excluded and special procedure material

(1) If, at any time after a seizure of anything has been made in exercise of a power to which this section applies—

(a) it appears to the person for the time being having possession of the seized property in consequence of the seizure that the property—

(i) is excluded material or special procedure material, or

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(ii) has any excluded material or any special procedure material comprised in it,

(b) its retention is not authorised by section 56, and

(c) in a case where the material is comprised in something else which has been lawfully seized, it is not comprised in property falling within subsection (2) or (3),

it shall be the duty of that person to secure that the item is returned as soon as reasonably practicable after the seizure.

(2) Property in which any excluded material or special procedure material is comprised falls within this subsection if—

(a) the whole or a part of the rest of the property is property for which the person seizing it had power to search when he made the seizure but is not property the return of which is required by this section or section 54; and

(b) in all the circumstances, it is not reasonably practicable for that material to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that material) its use, if retained, would be lawful.

(3) Property in which any excluded material or special procedure material is comprised falls within this subsection if—

(a) the whole or a part of the rest of the property is property the retention of which is authorised by section 56; and

(b) in all the circumstances, it is not reasonably practicable for that material to be separated from the rest of that property (or, as the case may be, from that part of it) without prejudicing the use of the rest of that property, or that part of it, for purposes for which (disregarding that material) its use, if retained, would be lawful.

(4) This section applies (subject to subsection (5)) to each of the powers of seizure specified in Part 3 of Schedule 1.

(5) In its application to the powers of seizure conferred by—

[F5](a)

(b) section 56(5) of the Drug Trafficking Act 1994 (c. 37), [F6]. . .

(c) Article 51(5) of the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996 1299 (N.I. 6)),**[**[F7] and

(d) section 352(4) of the Proceeds of Crime Act 2002,**]**

this section shall have effect with the omission of every reference to special procedure material.

(6) In this section, except in its application to—

(a) the power of seizure conferred by section 8(2) of the 1984 Act,

(b) the power of seizure conferred by Article 10(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)),

(c) each of the powers of seizure conferred by the provisions of paragraphs 1 and 3 of Schedule 5 to the Terrorism Act 2000 (c. 11), and

(d) the power of seizure conferred by paragraphs 15 and 19 of Schedule 5 to that Act of 2000, so far only as the power in question is conferred by reference to paragraph 1 of that Schedule,

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"special procedure material" means special procedure material consisting of documents or records other than documents.

Textual Amendments

F5 S. 55(5)(a) repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1)(3), **Sch. 12**; S.I. 2003/333, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-13 (as amended by S.I. 2003/531, arts. 3, 4))

F6 Word in s. 55(5) omitted (24.2.2003) and repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1)(3), **Sch. 11 para. 40(2)**, **Sch. 12**; S.I. 2003/120, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended by 2003/333, art. 14)) and S.I. 2003/333, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-13 (as amended by S.I. 2003/531, arts. 3, 4))

F7 S. 55(5)(d) and word inserted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458, **Sch. 11 para. 40(2)**; S.I. 2003/120, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended by 2003/333, art. 14))

VALID FROM 01/04/2003

56 Property seized by constables etc.

(1) The retention of—

(a) property seized on any premises by a constable who was lawfully on the premises,

(b) property seized on any premises by a relevant person who was on the premises accompanied by a constable, and

(c) property seized by a constable carrying out a lawful search of any person,

is authorised by this section if the property falls within subsection (2) or (3).

(2) Property falls within this subsection to the extent that there are reasonable grounds for believing—

(a) that it is property obtained in consequence of the commission of an offence; and

(b) that it is necessary for it to be retained in order to prevent its being concealed, lost, damaged, altered or destroyed.

(3) Property falls within this subsection to the extent that there are reasonable grounds for believing—

(a) that it is evidence in relation to any offence; and

(b) that it is necessary for it to be retained in order to prevent its being concealed, lost, altered or destroyed.

(4) Nothing in this section authorises the retention (except in pursuance of section 54(2)) of anything at any time when its return is required by section 54.

(5) In subsection (1)(b) the reference to a relevant person's being on any premises accompanied by a constable is a reference only to a person who was so on the premises under the authority of—

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(a) a warrant under section 448 of the Companies Act 1985 (c. 6) authorising him to exercise together with a constable the powers conferred by subsection (3) of that section;

(b) a warrant under Article 441 of the Companies (Northern Ireland) Order 1986 (S.I. 1986 1032 (N.I. 6)) authorising him to exercise together with a constable the powers conferred by paragraph (3) of that Article;

[F8](c) . . . . . .

[F8](d) . . . . . .

[F8](e) . . . . . .

Textual Amendments

F8 S. 56(5)(c)(d)(e) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 364(a)

Modifications etc. (not altering text)

C7 S. 56 modified (2.12.2002) by Police Reform Act 2002 (c. 30),s. 38, {Sch. 4 para. 24(b)}; S.I. 2002/2750, **art. 2**

C8 S. 56 amended (N.I.) (8.4.2003) by Police (Northern Ireland) Act 2003 (c. 6), ss. 30, 31, **Sch. 2 Pt. 1 para. 10(1)(b)**

57 Retention of seized items

(1) This section has effect in relation to the following provisions (which are about the retention of items which have been seized and are referred to in this section as "the relevant provisions")—

(a) section 22 of the 1984 Act;

(b) Article 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12));

(c) section 20CC(3) of the Taxes Management Act 1970 (c. 9);

(d) paragraph 4 of Schedule 9 to the Weights and Measures (Northern Ireland) Order 1981 (S.I. 1981 231 (N.I. 10));

[F9](e) . . . . . .

(f) section 448(6) of the Companies Act 1985 (c. 6);

(g) paragraph 4 of Schedule 8 to the Weights and Measures Act 1985 (c. 72);

[F9](h) . . . . . .

(i) Article 441(6) of the Companies (Northern Ireland) Order 1986;

[F9](j) . . . . . .

(k) section 40(4) of the Human Fertilisation and Embryology Act 1990 (c. 37);

(l) section 5(4) of the Knives Act 1997 (c. 21);

(m) paragraph 7(2) of Schedule 9 to the Data Protection Act 1998 (c. 29);

(n) section 28(7) of the Competition Act 1998 (c. 41);

(o) section 176(8) of the Financial Services and Markets Act 2000 (c. 8);

(p) paragraph 7(2) of Schedule 3 to the Freedom of Information Act 2000 (c. 36).

(2) The relevant provisions shall apply in relation to any property seized in exercise of a power conferred by section 50 or 51 as if the property had been seized under the power of seizure by reference to which the power under that section was exercised in relation to that property.

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(3) Nothing in any of sections 53 to 56 authorises the retention of any property at any time when its retention would not (apart from the provisions of this Part) be authorised by the relevant provisions.

(4) Nothing in any of the relevant provisions authorises the retention of anything after an obligation to return it has arisen under this Part.

Textual Amendments

F9 S. 57(1)(e)(h)(j) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 364(b)

VALID FROM 01/04/2003

58 Person to whom seized property is to be returned

(1) Where—

(a) anything has been seized in exercise of any power of seizure, and

(b) there is an obligation under this Part for the whole or any part of the seized property to be returned,

the obligation to return it shall (subject to the following provisions of this section) be an obligation to return it to the person from whom it was seized.

(2) Where—

(a) any person is obliged under this Part to return anything that has been seized to the person from whom it was seized, and

(b) the person under that obligation is satisfied that some other person has a better right to that thing than the person from whom it was seized,

his duty to return it shall, instead, be a duty to return it to that other person or, as the case may be, to the person appearing to him to have the best right to the thing in question.

(3) Where different persons claim to be entitled to the return of anything that is required to be returned under this Part, that thing may be retained for as long as is reasonably necessary for the determination in accordance with subsection (2) of the person to whom it must be returned.

(4) References in this Part to the person from whom something has been seized, in relation to a case in which the power of seizure was exercisable by reason of that thing's having been found on any premises, are references to the occupier of the premises at the time of the seizure.

(5) References in this section to the occupier of any premises at the time of a seizure, in relation to a case in which—

(a) a notice in connection with the entry or search of the premises in question, or with the seizure, was given to a person appearing in the occupier's absence to be in charge of the premises, and

(b) it is practicable, for the purpose of returning something that has been seized, to identify that person but not to identify the occupier of the premises,

are references to that person.

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Remedies and safeguards

VALID FROM 01/04/2003

59 Application to the appropriate judicial authority

(1) This section applies where anything has been seized in exercise, or purported exercise, of a relevant power of seizure.

(2) Any person with a relevant interest in the seized property may apply to the appropriate judicial authority, on one or more of the grounds mentioned in subsection (3), for the return of the whole or a part of the seized property.

(3) Those grounds are—
- (a) that there was no power to make the seizure;
- (b) that the seized property is or contains an item subject to legal privilege that is not comprised in property falling within section 54(2);
- (c) that the seized property is or contains any excluded material or special procedure material which—
  - (i) has been seized under a power to which section 55 applies;
  - (ii) is not comprised in property falling within section 55(2) or (3); and
  - (iii) is not property the retention of which is authorised by section 56;
- (d) that the seized property is or contains something seized under section 50 or 51 which does not fall within section 53(3);

and subsections (5) and (6) of section 55 shall apply for the purposes of paragraph (c) as they apply for the purposes of that section.

(4) Subject to subsection (6), the appropriate judicial authority, on an application under subsection (2), shall—
- (a) if satisfied as to any of the matters mentioned in subsection (3), order the return of so much of the seized property as is property in relation to which the authority is so satisfied; and
- (b) to the extent that that authority is not so satisfied, dismiss the application.

(5) The appropriate judicial authority—
- (a) on an application under subsection (2),
- (b) on an application made by the person for the time being having possession of anything in consequence of its seizure under a relevant power of seizure, or
- (c) on an application made—
  - (i) by a person with a relevant interest in anything seized under section 50 or 51, and
  - (ii) on the grounds that the requirements of section 53(2) have not been or are not being complied with,

  may give such directions as the authority thinks fit as to the examination, retention, separation or return of the whole or any part of the seized property.

(6) On any application under this section, the appropriate judicial authority may authorise the retention of any property which—
- (a) has been seized in exercise, or purported exercise, of a relevant power of seizure, and

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(b) would otherwise fall to be returned,

if that authority is satisfied that the retention of the property is justified on grounds falling within subsection (7).

(7) Those grounds are that (if the property were returned) it would immediately become appropriate—

(a) to issue, on the application of the person who is in possession of the property at the time of the application under this section, a warrant in pursuance of which, or of the exercise of which, it would be lawful to seize the property; or

(b) to make an order under—

(i) paragraph 4 of Schedule 1 to the 1984 Act,

(ii) paragraph 4 of Schedule 1 to the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)),

(iii) section 20BA of the Taxes Management Act 1970 (c. 9), or

(iv) paragraph 5 of Schedule 5 to the Terrorism Act 2000 (c. 11),

under which the property would fall to be delivered up or produced to the person mentioned in paragraph (a).

(8) Where any property which has been seized in exercise, or purported exercise, of a relevant power of seizure has parts ("part A" and "part B") comprised in it such that—

(a) it would be inappropriate, if the property were returned, to take any action such as is mentioned in subsection (7) in relation to part A,

(b) it would (or would but for the facts mentioned in paragraph (a)) be appropriate, if the property were returned, to take such action in relation to part B, and

(c) in all the circumstances, it is not reasonably practicable to separate part A from part B without prejudicing the use of part B for purposes for which it is lawful to use property seized under the power in question,

the facts mentioned in paragraph (a) shall not be taken into account by the appropriate judicial authority in deciding whether the retention of the property is justified on grounds falling within subsection (7).

(9) If a person fails to comply with any order or direction made or given by a judge of the Crown Court in exercise of any jurisdiction under this section—

(a) the authority may deal with him as if he had committed a contempt of the Crown Court; and

(b) any enactment relating to contempt of the Crown Court shall have effect in relation to the failure as if it were such a contempt.

(10) The relevant powers of seizure for the purposes of this section are—

(a) the powers of seizure conferred by sections 50 and 51;

(b) each of the powers of seizure specified in Parts 1 and 2 of Schedule 1; and

(c) any power of seizure (not falling within paragraph (a) or (b)) conferred on a constable by or under any enactment, including an enactment passed after this Act.

(11) References in this section to a person with a relevant interest in seized property are references to—

(a) the person from whom it was seized;

(b) any person with an interest in the property; or

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(c) any person, not falling within paragraph (a) or (b), who had custody or control of the property immediately before the seizure.

(12) For the purposes of subsection (11)(b), the persons who have an interest in seized property shall, in the case of property which is or contains an item subject to legal privilege, be taken to include the person in whose favour that privilege is conferred.

VALID FROM 01/04/2003

60 Cases where duty to secure arises

(1) Where property has been seized in exercise, or purported exercise, of any power of seizure conferred by section 50 or 51, a duty to secure arises under section 61 in relation to the seized property if—

(a) a person entitled to do so makes an application under section 59 for the return of the property;

(b) in relation to England, Wales and Northern Ireland, at least one of the conditions set out in subsections (2) and (3) is satisfied;

(c) in relation to Scotland, the condition set out in subsection (2) is satisfied; and

(d) notice of the application is given to a relevant person.

(2) The first condition is that the application is made on the grounds that the seized property is or contains an item subject to legal privilege that is not comprised in property falling within section 54(2).

(3) The second condition is that—

(a) the seized property was seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers specified in subsection (6); and

(b) the application—

(i) is made on the ground that the seized property is or contains something which does not fall within section 53(3); and

(ii) states that the seized property is or contains special procedure material or excluded material.

(4) In relation to property seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers of seizure conferred by—

(a) [F10] . . . . . .

(b) section 56(5) of the Drug Trafficking Act 1994 (c. 37), [F11]. . .

(c) Article 51(5) of the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996 1299 (N.I. 6)), **[**[F12] or

(d) section 352(4) of the Proceeds of Crime Act 2002,**]**

the second condition is satisfied only if the application states that the seized property is or contains excluded material

(5) In relation to property seized by a person who had, or purported to have, power under this Part to seize it by virtue only of one or more of the powers of seizure specified in Part 3 of Schedule 1 but not by virtue of—

(a) the power of seizure conferred by section 8(2) of the 1984 Act,

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(b) the power of seizure conferred by Article 10(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)),

(c) either of the powers of seizure conferred by paragraphs 1 and 3 of Schedule 5 to the Terrorism Act 2000 (c. 11), or

(d) either of the powers of seizure conferred by paragraphs 15 and 19 of Schedule 5 to that Act of 2000 so far as they are conferred by reference to paragraph 1 of that Schedule,

the second condition is satisfied only if the application states that the seized property is or contains excluded material or special procedure material consisting of documents or records other than documents.

(6) The powers mentioned in subsection (3) are—

(a) the powers of seizure specified in Part 3 of Schedule 1;

(b) the powers of seizure conferred by the provisions of Parts 2 and 3 of the 1984 Act (except section 8(2) of that Act);

(c) the powers of seizure conferred by the provisions of Parts 3 and 4 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (except Article 10(2) of that Order);

(d) the powers of seizure conferred by the provisions of paragraph 11 of Schedule 5 to the Terrorism Act 2000; and

(e) the powers of seizure conferred by the provisions of paragraphs 15 and 19 of that Schedule so far as they are conferred by reference to paragraph 11 of that Schedule.

(7) In this section "a relevant person" means any one of the following—

(a) the person who made the seizure;

(b) the person for the time being having possession, in consequence of the seizure, of the seized property;

(c) the person named for the purposes of subsection (1)(d) or (4)(d) of section 52 in any notice given under that section with respect to the seizure.

Textual Amendments

F10 S. 60(4)(a) repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1)(3), **Sch. 12**; S.I. 2003/333, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-13 (as amended by S.I. 2003/531, arts. 3, 4))

F11 Word in s. 60(4) omitted (24.2.2003) by virtue of Proceeds of Crime Act 2002 (c. 29), ss. 456, 457, 458, Sch. 11 para. 40(3) and by {Sch. 12} of the said Proceeds of Crime Act 2002 the same word is repealed (24.3.2003); S.I. 2003/120, **art. 2**, Sch. (subject to arts. 3-7 (as amended by S.I. 2003/333, art. 14)) and S.I. 2003/333, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-13 (as amended by S.I. 2003/531, arts. 3, 4))

F12 S. 60(4)(d) and word inserted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458(1)(3), **Sch. 11 para. 40(3)**; S.I. 2003/120, **art. 2** Sch. (subject to transitional provisions and savings in arts. 3-7) (as amended by S.I. 2003/333, art. 14))

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VALID FROM 01/04/2003

61 The duty to secure

(1) The duty to secure that arises under this section is a duty of the person for the time being having possession, in consequence of the seizure, of the seized property to secure that arrangements are in force that ensure that the seized property (without being returned) is not, at any time after the giving of the notice of the application under section 60(1), either—

(a) examined or copied, or

(b) put to any use to which its seizure would, apart from this subsection, entitle it to be put,

except with the consent of the applicant or in accordance with the directions of the appropriate judicial authority.

(2) Subsection (1) shall not have effect in relation to any time after the withdrawal of the application to which the notice relates.

(3) Nothing in any arrangements for the purposes of this section shall be taken to prevent the giving of a notice under section 49 of the Regulation of Investigatory Powers Act 2000 (c. 23) (notices for the disclosure of material protected by encryption etc.) in respect of any information contained in the seized material; but subsection (1) of this section shall apply to anything disclosed for the purpose of complying with such a notice as it applies to the seized material in which the information in question is contained.

(4) Subsection (9) of section 59 shall apply in relation to any jurisdiction conferred on the appropriate judicial authority by this section as it applies in relation to the jurisdiction conferred by that section.

VALID FROM 01/04/2003

62 Use of inextricably linked property

(1) This section applies to property, other than property which is for the time being required to be secured in pursuance of section 61, if—

(a) it has been seized under any power conferred by section 50 or 51 or specified in Part 1 or 2 of Schedule 1, and

(b) it is inextricably linked property.

(2) Subject to subsection (3), it shall be the duty of the person for the time being having possession, in consequence of the seizure, of the inextricably linked property to ensure that arrangements are in force which secure that that property (without being returned) is not at any time, except with the consent of the person from whom it was seized, either—

(a) examined or copied, or

(b) put to any other use.

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(3) Subsection (2) does not require that arrangements under that subsection should prevent inextricably linked property from being put to any use falling within subsection (4).

(4) A use falls within this subsection to the extent that it is use which is necessary for facilitating the use, in any investigation or proceedings, of property in which the inextricably linked property is comprised.

(5) Property is inextricably linked property for the purposes of this section if it falls within any of subsections (6) to (8).

(6) Property falls within this subsection if—
- (a) it has been seized under a power conferred by section 50 or 51; and
- (b) but for subsection (3)(c) of section 53, arrangements under subsection (2) of that section in relation to the property would be required to ensure the return of the property as mentioned in subsection (2)(c) of that section.

(7) Property falls within this subsection if—
- (a) it has been seized under a power to which section 54 applies; and
- (b) but for paragraph (b) of subsection (1) of that section, the person for the time being having possession of the property would be under a duty to secure its return as mentioned in that subsection.

(8) Property falls within this subsection if—
- (a) it has been seized under a power of seizure to which section 55 applies; and
- (b) but for paragraph (c) of subsection (1) of that section, the person for the time being having possession of the property would be under a duty to secure its return as mentioned in that subsection.

Construction of Part 2

VALID FROM 01/04/2003

63 Copies

(1) Subject to subsection (3)—
- (a) in this Part, "seize" includes "take a copy of", and cognate expressions shall be construed accordingly;
- (b) this Part shall apply as if any copy taken under any power to which any provision of this Part applies were the original of that of which it is a copy; and
- (c) for the purposes of this Part, except sections 50 and 51, the powers mentioned in subsection (2) (which are powers to obtain hard copies etc. of information which is stored in electronic form) shall be treated as powers of seizure, and references to seizure and to seized property shall be construed accordingly.

(2) The powers mentioned in subsection (1)(c) are any powers which are conferred by—
- (a) section 19(4) or 20 of the 1984 Act;
- (b) Article 21(4) or 22 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12));

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(c) section 46(3) of the Firearms Act 1968 (c. 27);
(d) section 43(5)(aa) of the Gaming Act 1968 (c. 65);
(e) section 20C(3A) of the Taxes Management Act 1970 (c. 9);
(f) section 32(6)(b) of the Food Safety Act 1990 (c. 16);
(g) Article 34(6)(b) of the Food Safety (Northern Ireland) Order 1991 (S.I. 1991 762 (N.I. 7));
(h) section 28(2)(f) of the Competition Act 1998 (c. 41); or
(i) section 8(2)(c) of the Nuclear Safeguards Act 2000 (c. 5).

(3) Subsection (1) does not apply to section 50(6) or 57.

VALID FROM 01/04/2003

64 Meaning of "appropriate judicial authority"

(1) Subject to subsection (2), in this Part "appropriate judicial authority" means—
(a) in relation to England and Wales and Northern Ireland, a judge of the Crown Court;
(b) in relation to Scotland, a sheriff.

(2) In this Part "appropriate judicial authority", in relation to the seizure of items under any power mentioned in subsection (3) and in relation to items seized under any such power, means—
(a) in relation to England and Wales and Northern Ireland, the High Court;
(b) in relation to Scotland, the Court of Session.

(3) Those powers are—
(a) the powers of seizure conferred by—
(i) section 448(3) of the Companies Act 1985 (c. 6);
(ii) Article 441(3) of the Companies (Northern Ireland) Order 1986 (S.I. 1986 1032 (N.I. 6)); and
(iii) section 28(2) of the Competition Act 1998; [F13]. . .
[[F14](aa) the power of seizure conferred by section 352(4) of the Proceeds of Crime Act 2002, if the power is exercisable for the purposes of a civil recovery investigation (within the meaning of Part 8 of that Act);**]**
(b) any power of seizure conferred by section 50, so far as that power is exercisable by reference to any power mentioned in paragraph (a).

Textual Amendments

F13 Word in s. 64(3) omitted (24.2.2003) by virtue of Proceeds of Crime Act 2002 (c. 29), ss. 456, 457, 458, Sch. 11 para. 40(4) and by {Sch. 12} of the said Proceeds of Crime Act 2002 the same word is repealed (24.3.2003); S.I. 2003/120, **art. 2**, Sch. (subject to arts. 3-7 (as amended by S.I. 2003/333, art. 14)) and S.I. 2003/333, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-13 (as amended by S.I. 2003/531, arts. 3, 4))

F14 S. 64(3)(aa) inserted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458(1)(3), **Sch. 11 para. 40(4)**; S.I. 2003/120, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended by S.I. 2003/333, art. 14))

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Commencement Information

I5 S. 64 wholly in force at 1.6.2004; s. 64 not in force at Royal Assent, see s. 138(2); s. 64(1) in force for certain purposes at 1.4.2003 by S.I. 2003/708, **art. 2(b)**; s. 64 in force in so far as not already in force at 1.6.2004 by S.I. 2004/1376, **art. 2(a)**

65 Meaning of "legal privilege"

(1) Subject to the following provisions of this section, references in this Part to an item subject to legal privilege shall be construed—

(a) for the purposes of the application of this Part to England and Wales, in accordance with section 10 of the 1984 Act (meaning of "legal privilege");

(b) for the purposes of the application of this Part to Scotland, in accordance with section **[**[F15]412 of the Proceeds of Crime Act 2002**]**(interpretation); and

(c) for the purposes of the application of this Part to Northern Ireland, in accordance with Article 12 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (meaning of "legal privilege").

(2) In relation to property which has been seized in exercise, or purported exercise, of—

(a) the power of seizure conferred by section 28(2) of the Competition Act 1998, or

(b) so much of any power of seizure conferred by section 50 as is exercisable by reference to that power,

references in this Part to an item subject to legal privilege shall be read as references to a privileged communication within the meaning of section 30 of that Act.

(3) In relation to property which has been seized in exercise, or purported exercise, of—

(a) the power of seizure conferred by section 20C of the Taxes Management Act 1970 (c. 9), or

(b) so much of any power of seizure conferred by section 50 as is exercisable by reference to that power,

references in this Part to an item subject to legal privilege shall be construed in accordance with section 20C(4A) of that Act.

[[F16](3A) In relation to property which has been seized in exercise, or purported exercise, of—

(a) the power of seizure conferred by section 352(4) of the Proceeds of Crime Act 2002, or

(b) so much of any power of seizure conferred by section 50 as is exercisable by reference to that power,

references in this Part to an item subject to legal privilege shall be read as references to privileged material within the meaning of section 354(2) of that Act.**]**

(4) An item which is, or is comprised in, property which has been seized in exercise, or purported exercise, of the power of seizure conferred by section 448(3) of the Companies Act 1985 (c. 6) shall be taken for the purposes of this Part to be an item subject to legal privilege if, and only if, the seizure of that item was in contravention of section 452(2) of that Act (privileged information).

(5) An item which is, or is comprised in, property which has been seized in exercise, or purported exercise, of the power of seizure conferred by Article 441(3) of the Companies (Northern Ireland) Order 1986 (S.I. 1986 1032 (N.I. 6)) shall be taken for the purposes of this Part to be an item subject to legal privilege if, and only if, the

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seizure of that item was in contravention of Article 445(2) of that Order (privileged information).

(6) An item which is, or is comprised in, property which has been seized in exercise, or purported exercise, of the power of seizure conferred by sub-paragraph (2) of paragraph 3 of Schedule 2 to the Timeshare Act 1992 (c. 35) shall be taken for the purposes of this Part to be an item subject to legal privilege if, and only if, the seizure of that item was in contravention of sub-paragraph (4) of that paragraph (privileged documents).

(7) An item which is, or is comprised in, property which has been seized in exercise, or purported exercise, of the power of seizure conferred by paragraph 1 of Schedule 9 to the Data Protection Act 1998 (c. 29) shall be taken for the purposes of this Part to be an item subject to legal privilege if, and only if, the seizure of that item was in contravention of paragraph 9 of that Schedule (privileged communications).

(8) An item which is, or is comprised in, property which has been seized in exercise, or purported exercise, of the power of seizure conferred by paragraph 1 of Schedule 3 to the Freedom of Information Act 2000 (c. 36) shall be taken for the purposes of this Part to be an item subject to legal privilege if, and only if, the seizure of that item was in contravention of paragraph 9 of that Schedule (privileged communications).

(9) An item which is, or is comprised in, property which has been seized in exercise, or purported exercise, of so much of any power of seizure conferred by section 50 as is exercisable by reference to a power of seizure conferred by—

(a) section 448(3) of the Companies Act 1985,
(b) Article 441(3) of the Companies (Northern Ireland) Order 1986,
(c) paragraph 3(2) of Schedule 2 to the Timeshare Act 1992,
(d) paragraph 1 of Schedule 9 to the Data Protection Act 1998, or
(e) paragraph 1 of Schedule 3 to the Freedom of Information Act 2000,

shall be taken for the purposes of this Part to be an item subject to legal privilege if, and only if, the item would have been taken for the purposes of this Part to be an item subject to legal privilege had it been seized under the power of seizure by reference to which the power conferred by section 50 was exercised.

Textual Amendments

F15 Words in s. 65(1)(b) substituted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458, **Sch. 11 para. 40(5)(a)**; S.I. 2003/120, **art. 2** Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended by S.I. 2003/333, art. 14))

F16 S. 65(3A) inserted (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458, **Sch. 11 para. 40(5)(b)**; S.I. 2003/120, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended by S.I. 2003/333, art. 14))

66 General interpretation of Part 2

(1) In this Part—

"appropriate judicial authority" has the meaning given by section 64;

"documents" includes information recorded in any form;

"item subject to legal privilege" shall be construed in accordance with section 65;

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"premises" includes any vehicle, stall or moveable structure (including an offshore installation) and any other place whatever, whether or not occupied as land;

"offshore installation" has the same meaning as in the Mineral Workings (Offshore Installations) Act 1971 (c. 61);

"return", in relation to seized property, shall be construed in accordance with section 58, and cognate expressions shall be construed accordingly;

"seize", and cognate expressions, shall be construed in accordance with section 63(1) and subsection (5) below;

"seized property", in relation to any exercise of a power of seizure, means (subject to subsection (5)) anything seized in exercise of that power; and

"vehicle" includes any vessel, aircraft or hovercraft.

(2) In this Part references, in relation to a time when seized property is in any person's possession in consequence of a seizure ("the relevant time"), to something for which the person making the seizure had power to search shall be construed—

(a) where the seizure was made on the occasion of a search carried out on the authority of a warrant, as including anything of the description of things the presence or suspected presence of which provided grounds for the issue of the warrant;

(b) where the property was seized in the course of a search on the occasion of which it would have been lawful for the person carrying out the search to seize anything which on that occasion was believed by him to be, or appeared to him to be, of a particular description, as including—

(i) anything which at the relevant time is believed by the person in possession of the seized property, or (as the case may be) appears to him, to be of that description; and

(ii) anything which is in fact of that description;

(c) where the property was seized in the course of a search on the occasion of which it would have been lawful for the person carrying out the search to seize anything which there were on that occasion reasonable grounds for believing was of a particular description, as including—

(i) anything which there are at the relevant time reasonable grounds for believing is of that description; and

(ii) anything which is in fact of that description;

(d) where the property was seized in the course of a search to which neither paragraph (b) nor paragraph (c) applies, as including anything which is of a description of things which, on the occasion of the search, it would have been lawful for the person carrying it out to seize otherwise than under section 50 and 51; and

(e) where the property was seized on the occasion of a search authorised under section 82 of the Terrorism Act 2000 (c. 11) (seizure of items suspected to have been, or to be intended to be, used in commission of certain offences), as including anything—

(i) which is or has been, or is or was intended to be, used in the commission of an offence such as is mentioned in subsection (3)(a) or (b) of that section; or

(ii) which at the relevant time the person who is in possession of the seized property reasonably suspects is something falling within sub-paragraph (i).

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(3) For the purpose of determining in accordance with subsection (2), in relation to any time, whether or to what extent property seized on the occasion of a search authorised under section 9 of the Official Secrets Act 1911 (c. 28) (seizure of evidence of offences under that Act having been or being about to be committed) is something for which the person making the seizure had power to search, subsection (1) of that section shall be construed—

(a) as if the reference in that subsection to evidence of an offence under that Act being about to be committed were a reference to evidence of such an offence having been, at the time of the seizure, about to be committed; and

(b) as if the reference in that subsection to reasonable ground for suspecting that such an offence is about to be committed were a reference to reasonable ground for suspecting that at the time of the seizure such an offence was about to be committed.

(4) References in subsection (2) to a search include references to any activities authorised by virtue of any of the following—

(a) section 28(1) of the Trade Descriptions Act 1968 (c. 29) (power to enter premises and to inspect and seize goods and documents);

(b) section 29(1) of the Fair Trading Act 1973 (c. 41) (power to enter premises and to inspect and seize goods and documents);

(c) paragraph 9 of the Schedule to the Prices Act 1974 (c. 24) (powers of entry and inspection);

(d) section 162(1) of the Consumer Credit Act 1974 (c. 39) (powers of entry and inspection);

(e) section 11(1) of the Estate Agents Act 1979 (c. 38) (powers of entry and inspection);

(f) Schedule 9 to the Weights and Measures (Northern Ireland) Order 1981 (S.I. 1981 231 (N.I. 10));

(g) section 79 of, or Schedule 8 to, the Weights and Measures Act 1985 (c. 72) (powers of entry and inspection etc.);

(h) section 29 of the Consumer Protection Act 1987 (c. 43) (powers of search etc.);

(i) Article 22 of the Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987 2049 (N.I. 20));

(j) section 32(5) of the Food Safety Act 1990 (c. 16) (power to inspect records relating to a food business);

(k) paragraph 3 of the Schedule to the Property Misdescriptions Act 1991 (c. 29) (powers of seizure etc.);

(l) Article 33(6) of the Food Safety (Northern Ireland) Order 1991 (S.I. 1991 762 (N.I. 7));

(m) paragraph 3 of Schedule 2 to the Timeshare Act 1992 (c. 35) (powers of officers of enforcement authority).

(5) References in this Part to a power of seizure include references to each of the powers to take possession of items under—

[F17](a) . . . . . .

(b) section 448(3) of the Companies Act 1985 (c. 6);

[F17](c) . . . . . .

(d) Article 441(3) of the Companies (Northern Ireland) Order 1986 (S.I. 1986 1032 (N.I. 6));

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[F17](e) . . . . . .

(f) section 2(5) of the Criminal Justice Act 1987 (c. 38);

(g) section 40(2) of the Human Fertilisation and Embryology Act 1990 (c. 37);

(h) section 28(2)(c) of the Competition Act 1998 (c. 41); and

(i) section 176(5) of the Financial Services and Markets Act 2000 (c. 8);

and references in this Part to seizure and to seized property shall be construed accordingly.

(6) In this Part, so far as it applies to England and Wales—

(a) references to excluded material shall be construed in accordance with section 11 of the 1984 Act (meaning of "excluded material"); and

(b) references to special procedure material shall be construed in accordance with section 14 of that Act (meaning of "special procedure material").

(7) In this Part, so far as it applies to Northern Ireland—

(a) references to excluded material shall be construed in accordance with Article 13 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (meaning of "excluded material"); and

(b) references to special procedure material shall be construed in accordance with Article 16 of that Order (meaning of "special procedure material").

(8) References in this Part to any item or material being comprised in other property include references to its being mixed with that other property.

(9) In this Part "enactment" includes an enactment contained in Northern Ireland legislation.

Textual Amendments

F17 S. 66(5)(a)(c)(e) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 364(c)

Supplemental provisions of Part 2

VALID FROM 01/04/2003

67 Application to customs officers

The powers conferred by section 114(2) of the 1984 Act and Article 85(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (application of provisions relating to police officers to customs officers) shall have effect in relation to the provisions of this Part as they have effect in relation to the provisions of that Act or, as the case may be, that Order.

68 Application to Scotland

(1) In the application of this Part to Scotland—

(a) subsection (4) of section 54 and subsection (10) of section 59 shall each have effect with the omission of paragraph (c) of that subsection;

(b) section 55 and subsection (3)(c) of section 59 shall be omitted; and

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(c) Schedule 1 shall have effect as if the powers specified in that Schedule did not include any power of seizure under any enactment mentioned in that Schedule, so far as it is exercisable in Scotland by a constable, except a power conferred by an enactment mentioned in subsection (2).

(2) Those enactments are—

(a) section 43(5) of the Gaming Act 1968 (c. 65);

F18(b) . . . . . .

(c) section 448(3) of the Companies Act 1985 (c. 6);

F18(d) . . . . . .

F18(e) . . . . . .

(f) section 176(5) of the Financial Services and Markets Act 2000 (c. 8).

Textual Amendments

F18 S. 68(2)(b)(d)(e) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 364(d)

VALID FROM 01/04/2003

69 Application to powers designated by order

(1) The Secretary of State may by order—

(a) provide for any power designated by the order to be added to those specified in Schedule 1 or section 63(2);

(b) make any modification of the provisions of this Part which the Secretary of State considers appropriate in consequence of any provision made by virtue of paragraph (a);

(c) make any modification of any enactment making provision in relation to seizures, or things seized, under a power designated by an order under this subsection which the Secretary of State considers appropriate in consequence of any provision made by virtue of that paragraph.

(2) Where the power designated by the order made under subsection (1) is a power conferred in relation to Scotland, the Secretary of State shall consult the Scottish Ministers before making the order.

(3) The power to make an order under subsection (1) shall be exercisable by statutory instrument; and no such order shall be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.

(4) In this section "modification" includes any exclusion, extension or application.

VALID FROM 01/04/2003

70 Consequential applications and amendments of enactments

Schedule 2 (which applies enactments in relation to provision made by this Part and contains minor and consequential amendments) shall have effect.

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PART 3

POLICE AND CRIMINAL EVIDENCE AND THE TERRORISM ACT

Arrestable offences

71 Arrestable offences

F19 . . . . . .

Textual Amendments

F19 S. 71 repealed (1.10.2002) by Police Reform Act 2002 (c. 30), s. 107, **Sch. 8**; S.I. 2002/2306, **art. 2(g)(iii)(j)**

72 Importation of indecent or obscene material

In Part 1 of Schedule 5 to each of the 1984 Act and the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (serious arrestable offences), after paragraph 8 there shall be inserted—

"9 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) of being knowingly concerned, in relation to any goods, in any fraudulent evasion or attempt at evasion of a prohibition in force with respect to the goods under section 42 of the Customs Consolidation Act 1876 (c. 36) (prohibition on importing indecent or obscene articles)."

Detention and arrest

VALID FROM 01/04/2003

73 Use of video and telephone links for decisions about detention

(1) The 1984 Act shall be amended as follows.

(2) After section 40 there shall be inserted—

"40A Use of telephone for review under s. 40

(1) This section applies, notwithstanding anything in section 40 above, where in the case of a person who has been arrested but not charged—

(a) it is not reasonably practicable for an officer of at least the rank of inspector to be present in the police station where that person is held to carry out any review of that person's detention that is required by subsection (1)(b) of that section; and

(b) the review is not one which regulations under section 45A below authorise to be carried out using video-conferencing facilities, or is

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one which it is not reasonably practicable, in the circumstances, to carry out using any such facilities.

(2) The review may be carried out by an officer of at least the rank of inspector who has access to a means of communication by telephone to persons in the police station where the arrested person is held.

(3) Where any review is carried out under this section by an officer who is not present at the station where the arrested person is held—

(a) any obligation of that officer to make a record in connection with the carrying out of the review shall have effect as an obligation to cause another officer to make the record;

(b) any requirement for the record to be made in the presence of the arrested person shall apply to the making of that record by that other officer; and

(c) the requirements under section 40(12) and (13) above for—

(i) the arrested person, or

(ii) a solicitor representing him,

to be given any opportunity to make representations (whether in writing or orally) to that officer shall have effect as a requirement for that person, or such a solicitor, to be given an opportunity to make representations in a manner authorised by subsection (4) below.

(4) Representations are made in a manner authorised by this subsection—

(a) in a case where facilities exist for the immediate transmission of written representations to the officer carrying out the review, if they are made either—

(i) orally by telephone to that officer; or

(ii) in writing to that officer by means of those facilities;

and

(b) in any other case, if they are made orally by telephone to that officer.

(5) In this section "video-conferencing facilities" has the same meaning as in section 45A below."

(3) After section 45 there shall be inserted—

"**45A Use of video-conferencing facilities for decisions about detention**

(1) Subject to the following provisions of this section, the Secretary of State may by regulations provide that, in the case of an arrested person who is held in a police station, some or all of the functions mentioned in subsection (2) may be performed (notwithstanding anything in the preceding provisions of this Part) by an officer who—

(a) is not present in that police station; but

(b) has access to the use of video-conferencing facilities that enable him to communicate with persons in that station.

(2) Those functions are—

(a) the functions in relation to an arrested person taken to a police station that is not a designated police station which, in the case of an arrested person taken to a station that is a designated police station,

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are functions of a custody officer under section 37, 38 or 40 above; and

(b) the function of carrying out a review under section 40(1)(b) above (review, by an officer of at least the rank of inspector, of the detention of person arrested but not charged).

(3) Regulations under this section shall specify the use to be made in the performance of the functions mentioned in subsection (2) above of the facilities mentioned in subsection (1) above.

(4) Regulations under this section shall not authorise the performance of any of the functions mentioned in subsection (2)(a) above by such an officer as is mentioned in subsection (1) above unless he is a custody officer for a designated police station.

(5) Where any functions mentioned in subsection (2) above are performed in a manner authorised by regulations under this section—

(a) any obligation of the officer performing those functions to make a record in connection with the performance of those functions shall have effect as an obligation to cause another officer to make the record; and

(b) any requirement for the record to be made in the presence of the arrested person shall apply to the making of that record by that other officer.

(6) Where the functions mentioned in subsection (2)(b) are performed in a manner authorised by regulations under this section, the requirements under section 40(12) and (13) above for—

(a) the arrested person, or

(b) a solicitor representing him,

to be given any opportunity to make representations (whether in writing or orally) to the person performing those functions shall have effect as a requirement for that person, or such a solicitor, to be given an opportunity to make representations in a manner authorised by subsection (7) below.

(7) Representations are made in a manner authorised by this subsection—

(a) in a case where facilities exist for the immediate transmission of written representations to the officer performing the functions, if they are made either—

(i) orally to that officer by means of the video-conferencing facilities used by him for performing those functions; or

(ii) in writing to that officer by means of the facilities available for the immediate transmission of the representations;

and

(b) in any other case if they are made orally to that officer by means of the video-conferencing facilities used by him for performing the functions.

(8) Regulations under this section may make different provision for different cases and may be made so as to have effect in relation only to the police stations specified or described in the regulations.

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(9) Regulations under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) Any reference in this section to video-conferencing facilities, in relation to any functions, is a reference to any facilities (whether a live television link or other facilities) by means of which the functions may be performed with the officer performing them, the person in relation to whom they are performed and any legal representative of that person all able to both see and to hear each other."

VALID FROM 01/04/2003

74 Authorisation for delay in notifying arrest

In section 56(2)(b) of the 1984 Act (authorisation by a constable of at least the rank of superintendent for a delay in allowing an arrested person to notify someone of his arrest and detention), for "superintendent" there shall be substituted " inspector ".

75 Use of video links for proceedings about Terrorism Act detention

In paragraph 33 of Schedule 8 to the Terrorism Act 2000 (c. 11) (representation at a hearing for a warrant of further detention or for the extension or further extension of the period specified in such a warrant), after sub-paragraph (3) there shall be inserted—

"(4) A judicial authority may, after giving an opportunity for representations to be made by or on behalf of the applicant and the person to whom the application relates, direct—

(a) that the hearing of the application must be conducted, and

(b) that all representations by or on behalf of a person for the purposes of the hearing must be made,

by such means (whether a live television link or other means) falling within sub-paragraph (5) as may be specified in the direction and not in the presence (apart from by those means) of the applicant, of the person to whom the application relates or of any legal representative of that person.

(5) A means of conducting the hearing and of making representations falls within this sub-paragraph if it allows the person to whom the application relates and any legal representative of his (without being present at the hearing and to the extent that they are not excluded from it under sub-paragraph (3))—

(a) to see and hear the judicial authority and the making of representations to it by other persons; and

(b) to be seen and heard by the judicial authority.

(6) If the person to whom the application relates wishes to make representations about whether a direction should be given under sub-paragraph (4), he must do so by using the facilities that will be used if the judicial authority decides to give a direction under that sub-paragraph.

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(7) Sub-paragraph (2) applies to the hearing of representations about whether a direction should be given under sub-paragraph (4) in the case of any application as it applies to a hearing of the application.

(8) A judicial authority shall not give a direction under sub-paragraph (4) unless—

(a) it has been notified by the Secretary of State that facilities are available at the place where the person to whom the application relates is held for the judicial authority to conduct a hearing by means falling within sub-paragraph (5); and

(b) that notification has not been withdrawn.

(9) If in a case where it has power to do so a judicial authority decides not to give a direction under sub-paragraph (4), it shall state its reasons for not giving it."

Codes of practice

76 Visual recording of interviews

(1) After section 60 of the 1984 Act (tape recording of interviews) there shall be inserted—

"**60A Visual recording of interviews**

(1) The Secretary of State shall have power—

(a) to issue a code of practice for the visual recording of interviews held by police officers at police stations; and

(b) to make an order requiring the visual recording of interviews so held, and requiring the visual recording to be in accordance with the code for the time being in force under this section.

(2) A requirement imposed by an order under this section may be imposed in relation to such cases or police stations in such areas, or both, as may be specified or described in the order.

(3) An order under subsection (1) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) In this section—

(a) references to any interview are references to an interview of a person suspected of a criminal offence; and

(b) references to a visual recording include references to a visual recording in which an audio recording is comprised."

(2) In section 67(2) of the 1984 Act (procedure for codes of practice under section 60 or 66), after "60" there shall be inserted " , 60A ".

77 Codes of practice

In section 67 of the 1984 Act (procedure in relation to a code of practice under section 60, 60A or 66), after subsection (7) there shall be inserted—

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"(7A) Subject to subsection (7B) below, the Secretary of State may by order provide that a code of practice for the time being in force is to be treated as having effect with such modifications as may be set out in the order.

(7B) The effect of the modifications made by an order under subsection (7A) above must be confined to one or more of the following—

(a) the effect of the code in relation to such area of England and Wales as may be specified in the order;

(b) the effect of the code during such period, not exceeding two years, as may be so specified;

(c) the effect of the order in relation to such offences or descriptions of offender as may be so specified.

(7C) An order under subsection (7A) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Fingerprints and samples

78 Taking fingerprints

(1) In section 27 of the 1984 Act (requirement to attend police station for fingerprinting), after subsection (1) there shall be inserted—

"(1A) Where a person convicted of a recordable offence has already had his fingerprints taken as mentioned in paragraph (c) of subsection (1) above, that fact (together with any time when he has been in police detention for the offence) shall be disregarded for the purposes of that subsection if—

(a) the fingerprints taken on the previous occasion do not constitute a complete set of his fingerprints; or

(b) some or all of the fingerprints taken on the previous occasion are not of sufficient quality to allow satisfactory analysis, comparison or matching.

(1B) Subsections (1) and (1A) above apply—

(a) where a person has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted, or

(b) where a person has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 (c. 37) for a recordable offence,

as they apply where a person has been convicted of an offence, and references in this section to a conviction shall be construed accordingly."

(2) In section 61(3)(a) of the 1984 Act (compulsory fingerprinting under the authorisation of a police officer of at least the rank of superintendent), for "superintendent" there shall be substituted " inspector ".

(3) After section 61(3) of the 1984 Act there shall be inserted—

"(3A) Where a person charged with a recordable offence or informed that he will be reported for such an offence has already had his fingerprints taken as mentioned in paragraph (b)(ii) of subsection (3) above, that fact shall be disregarded for the purposes of that subsection if—

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(a) the fingerprints taken on the previous occasion do not constitute a complete set of his fingerprints; or

(b) some or all of the fingerprints taken on the previous occasion are not of sufficient quality to allow satisfactory analysis, comparison or matching (whether in the case in question or generally)."

(4) After section 61(4) of the 1984 Act there shall be inserted—

"(4A) The fingerprints of a person who has answered to bail at a court or police station may be taken without the appropriate consent at the court or station if—

(a) the court, or

(b) an officer of at least the rank of inspector,

authorises them to be taken.

(4B) A court or officer may only give an authorisation under subsection (4A) if—

(a) the person who has answered to bail has answered to it for a person whose fingerprints were taken on a previous occasion and there are reasonable grounds for believing that he is not the same person; or

(b) the person who has answered to bail claims to be a different person from a person whose fingerprints were taken on a previous occasion."

(5) In section 61(5) of the 1984 Act (authorisation to be in writing or oral but to be confirmed in writing), after "(3)(a)" there shall be inserted " or (4A) ".

(6) In section 61(6) of the 1984 Act (compulsory fingerprinting of persons convicted of recordable offences), for "he has been convicted of a recordable offence" there shall be substituted—

"(a) he has been convicted of a recordable offence;

(b) he has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted; or

(c) he has been warned or reprimanded under section 65 of the Crime and Disorder Act 1998 (c. 37) for a recordable offence."

(7) After section 61(8) of the 1984 Act there shall be inserted—

"(8A) Where a person's fingerprints are taken electronically, they must be taken only in such manner, and using such devices, as the Secretary of State has approved for the purposes of electronic fingerprinting."

(8) In section 65(1) of the 1984 Act (supplementary provisions of Part 5), for the definition of "fingerprints" there shall be substituted—

""fingerprints", in relation to any person, means a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of—

(a) any of that person's fingers; or

(b) either of his palms;".

(9) Section 39 of the Criminal Justice Act 1948 (c. 58) (proof of previous convictions by fingerprints) shall cease to have effect.

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Commencement Information

I6 S. 78 partly in force; s. 78 not in force at Royal Assent, see s. 138; s. 78(1)(3)-(6)(8)(9) in force at 1.1.2003 by S.I. 2002/3032, **art. 2**; s. 78(2) wholly in force at 1.4.2003 by S.I. 2003/708, **art. 2(f)**

VALID FROM 01/04/2003

79 Authority for intimate searches

In subsections (1) and (5) of section 55 of the 1984 Act (authorisation by a constable of at least the rank of superintendent of an intimate search or the use for such a search of a person without the specified qualification), for "superintendent", in each place where it occurs, there shall be substituted " inspector ".

80 Samples

(1) In sections 62(1)(a) and (1A)(a) and 63(3)(b) of the 1984 Act (authorisation of a police officer of or above the rank of superintendent required for the taking of an intimate or non-intimate sample), for the word "superintendent", in each place where it occurs, there shall be substituted " inspector ".

(2) In section 62(9) of the 1984 Act (intimate samples may only be taken by a registered medical practitioner), after "practitioner" there shall be inserted " or a registered nurse ".

(3) After section 63(5) of the 1984 Act there shall be inserted—

"(5A) An officer shall not give an authorisation under subsection (3) above for the taking from any person of a non-intimate sample consisting of a skin impression if—

(a) a skin impression of the same part of the body has already been taken from that person in the course of the investigation of the offence; and

(b) the impression previously taken is not one that has proved insufficient."

(4) After section 63(9) of the 1984 Act (non-intimate samples) there shall be inserted—

"(9A) Where a non-intimate sample consisting of a skin impression is taken electronically from a person, it must be taken only in such manner, and using such devices, as the Secretary of State has approved for the purpose of the electronic taking of such an impression."

(5) Section 65 of the 1984 Act (supplementary provisions of Part 5) shall become subsection (1) of that section and—

(a) after "this Act—" there shall be inserted—

""analysis", in relation to a skin impression, includes comparison and matching;"

(b) in the definition of "non-intimate sample", for paragraph (e) (footprints etc.) there shall be substituted—

"(e) a skin impression;"

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(c) after the definition of "registered dentist" there shall be inserted—

""skin impression", in relation to any person, means any record (other than a fingerprint) which is a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of the whole or any part of his foot or of any other part of his body;"

and

(d) in the definition of "sufficient" and "insufficient", after "means" there shall be inserted " (subject to subsection (2) below) ".

(6) After subsection (1) of section 65 of the 1984 Act there shall be inserted—

"(2) References in this Part of this Act to a sample's proving insufficient include references to where, as a consequence of—

(a) the loss, destruction or contamination of the whole or any part of the sample,

(b) any damage to the whole or a part of the sample, or

(c) the use of the whole or a part of the sample for an analysis which produced no results or which produced results some or all of which must be regarded, in the circumstances, as unreliable,

the sample has become unavailable or insufficient for the purpose of enabling information, or information of a particular description, to be obtained by means of analysis of the sample."

Commencement Information

I7 S. 80 partly in force; s. 80 not in force at Royal Assent, see s. 138; s. 80(3)(5)(6) in force at 1.1.2003 by S.I. 2002/3032, **art. 2**; s. 80(1) wholly in force at 1.4.2003 by S.I. 2003/708, **art. 2(h)**

81 Speculative searches

(1) In subsection (1)(a) of section 63A of the 1984 Act (speculative searches against records held by or on behalf of specified police forces), for "a police force (or police forces) falling within subsection (1A) below or" there shall be substituted " any one or more relevant law-enforcement authorities or which ".

(2) For subsection (1A) of that section (specified police forces) there shall be substituted—

"(1A) In subsection (1) above "relevant law-enforcement authority" means—

(a) a police force;

(b) the National Criminal Intelligence Service;

(c) the National Crime Squad;

(d) a public authority (not falling within paragraphs (a) to (c)) with functions in any part of the British Islands which consist of or include the investigation of crimes or the charging of offenders;

(e) any person with functions in any country or territory outside the United Kingdom which—

(i) correspond to those of a police force; or

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(ii) otherwise consist of or include the investigation of conduct contrary to the law of that country or territory, or the apprehension of persons guilty of such conduct;

(f) any person with functions under any international agreement which consist of or include the investigation of conduct which is—

(i) unlawful under the law of one or more places,

(ii) prohibited by such an agreement, or

(iii) contrary to international law,

or the apprehension of persons guilty of such conduct.

(1B) The reference in subsection (1A) above to a police force is a reference to any of the following—

(a) any police force maintained under section 2 of the Police Act 1996 (c. 16) (police forces in England and Wales outside London);

(b) the metropolitan police force;

(c) the City of London police force;

(d) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77);

(e) the Police Service of Northern Ireland;

(f) the Police Service of Northern Ireland Reserve;

(g) the Ministry of Defence Police;

(h) the Royal Navy Regulating Branch;

(i) the Royal Military Police;

(j) the Royal Air Force Police;

(k) the Royal Marines Police;

(l) the British Transport Police;

(m) the States of Jersey Police Force;

(n) the salaried police force of the Island of Guernsey;

(o) the Isle of Man Constabulary.

(1C) Where—

(a) fingerprints or samples have been taken from any person in connection with the investigation of an offence but otherwise than in circumstances to which subsection (1) above applies, and

(b) that person has given his consent in writing to the use in a speculative search of the fingerprints or of the samples and of information derived from them,

the fingerprints or, as the case may be, those samples and that information may be checked against any of the fingerprints, samples or information mentioned in paragraph (a) or (b) of that subsection.

(1D) A consent given for the purposes of subsection (1C) above shall not be capable of being withdrawn.”

82 Restriction on use and destruction of fingerprints and samples

(1) Section 64 of the 1984 Act (destruction of fingerprints and samples) shall be amended as follows.

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(2) For subsections (1) and (2) (obligation to destroy fingerprints and samples of persons who are not prosecuted or who are cleared) there shall be substituted—

"(1A) Where—

(a) fingerprints or samples are taken from a person in connection with the investigation of an offence, and

(b) subsection (3) below does not require them to be destroyed,

the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.

(1B) In subsection (1A) above—

(a) the reference to using a fingerprint includes a reference to allowing any check to be made against it under section 63A(1) or (1C) above and to disclosing it to any person;

(b) the reference to using a sample includes a reference to allowing any check to be made under section 63A(1) or (1C) above against it or against information derived from it and to disclosing it or any such information to any person;

(c) the reference to crime includes a reference to any conduct which—

(i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or

(ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;

and

(d) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom."

(3) In subsection (3), for "subsection (3A) below" there shall be substituted " the following provisions of this section ".

(4) For subsections (3A) and (3B) (power to retain samples for elimination purposes and restriction on use) there shall be substituted—

"(3AA) Samples and fingerprints are not required to be destroyed under subsection (3) above if—

(a) they were taken for the purposes of the investigation of an offence of which a person has been convicted; and

(b) a sample or, as the case may be, fingerprint was also taken from the convicted person for the purposes of that investigation.

(3AB) Subject to subsection (3AC) below, where a person is entitled under subsection (3) above to the destruction of any fingerprint or sample taken from him (or would be but for subsection (3AA) above), neither the fingerprint nor the sample, nor any information derived from the sample, shall be used—

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(a) in evidence against the person who is or would be entitled to the destruction of that fingerprint or sample; or

(b) for the purposes of the investigation of any offence;

and subsection (1B) above applies for the purposes of this subsection as it applies for the purposes of subsection (1A) above.

(3AC) Where a person from whom a fingerprint or sample has been taken consents in writing to its retention—

(a) that sample need not be destroyed under subsection (3) above;

(b) subsection (3AB) above shall not restrict the use that may be made of the fingerprint or sample or, in the case of a sample, of any information derived from it; and

(c) that consent shall be treated as comprising a consent for the purposes of section 63A(1C) above;

and a consent given for the purpose of this subsection shall not be capable of being withdrawn.

(3AD) For the purposes of subsection (3AC) above it shall be immaterial whether the consent is given at, before or after the time when the entitlement to the destruction of the fingerprint or sample arises."

(5) In subsection (7)(a) (saving for power conferred by Immigration Act 1971 (c. 77)), after "1971" there shall be inserted " or section 20 of the Immigration and Asylum Act 1999 (c. 33) (disclosure of police information to the Secretary of State for use for immigration purposes); ".

(6) The fingerprints, samples and information the retention and use of which, in accordance with the amended provisions of section 64 of the 1984 Act, is authorised by this section include—

(a) fingerprints and samples the destruction of which should have taken place before the commencement of this section, but did not; and

(b) information deriving from any such samples or from samples the destruction of which did take place, in accordance with that section, before the commencement of this section.

83 Provision for Northern Ireland corresponding to s. 82

(1) Article 64 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (destruction of fingerprints and samples) shall be amended as follows.

(2) For paragraphs (1) and (2) (obligation to destroy fingerprints and samples of persons who are not prosecuted or who are cleared) there shall be substituted—

"(1A) Where—

(a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and

(b) paragraph (3) does not require them to be destroyed,

the fingerprints or samples may be retained after they have fulfilled the purposes for which they were taken but shall not be used by any person except for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution.

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(1B) In paragraph (1A)—

(a) the reference to using a fingerprint includes a reference to allowing any check to be made against it under Article 63A(1) and to disclosing it to any person;

(b) the reference to using a sample includes a reference to allowing any check to be made under Article 63A(1) against it or against information derived from it and to disclosing it or any such information to any person;

(c) the reference to crime includes a reference to any conduct which—

(i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or

(ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;

and

(d) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom."

(3) In paragraph (3), for "paragraph (3A)" there shall be substituted " the following provisions of this Article ".

(4) For paragraphs (3A) and (3B) (power to retain samples for elimination purposes and restriction on use) there shall be substituted—

"(3AA) Samples and fingerprints are not required to be destroyed under paragraph (3) if—

(a) they were taken for the purposes of the investigation of an offence of which a person has been convicted; and

(b) a sample or, as the case may be, fingerprint was also taken from the convicted person for the purposes of that investigation.

(3AB) Subject to paragraph (3AC), where a person is entitled under paragraph (3) to the destruction of any fingerprint or sample taken from him (or would be but for paragraph (3AA)), neither the fingerprint nor the sample, nor any information derived from the sample, shall be used—

(a) in evidence against the person who is or would be entitled to the destruction of that fingerprint or sample; or

(b) for the purposes of the investigation of any offence;

and paragraph (1B) applies for the purposes of this paragraph as it applies for the purposes of paragraph (1A).

(3AC) Where a person from whom a fingerprint or sample has been taken consents in writing to its retention—

(a) that sample need not be destroyed under paragraph (3); and

(b) paragraph (3AB) shall not restrict the use that may be made of the fingerprint or sample or, in the case of a sample, of any information derived from it;

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and a consent given for the purposes of this paragraph shall not be capable of being withdrawn.

(3AD) For the purposes of paragraph (3AC) it shall be immaterial whether the consent is given at, before or after the time when the entitlement to the destruction of the fingerprint or sample arises."

(5) In paragraph (8)(a) (saving for power conferred by Immigration Act 1971 (c. 77)), after "1971" there shall be inserted " or section 20 of the Immigration and Asylum Act 1999 (c. 33) (disclosure of police information to the Secretary of State for use for immigration purposes); ".

(6) The fingerprints, samples and information the retention and use of which, in accordance with the amended provisions of Article 64 of the Order of 1989, is authorised by this section include—

(a) fingerprints and samples the destruction of which should have taken place before the commencement of this section, but did not; and

(b) information deriving from any such samples or from samples the destruction of which did take place, in accordance with that Article, before the commencement of this section.

84 Amendment of Terrorism Act 2000 equivalent to s. 82

(1) Paragraph 14 of Schedule 8 to the Terrorism Act 2000 (c. 11) (use of fingerprints and samples) shall be amended as follows.

(2) For sub-paragraph (2) (restriction on use for the purposes of a terrorist investigation) there shall be substituted—

"(2) The fingerprints and samples may be retained but shall not be used by any person except for the purposes of a terrorist investigation or for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution."

(3) In sub-paragraph (3) (exclusion of checks against the fingerprints or samples under section 63A or its Northern Ireland equivalent except for the purposes of a terrorism investigation), after "investigation" there shall be inserted " or for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution. "

(4) After sub-paragraph (4) there shall be inserted—

"(4A) In this paragraph—

(a) a reference to crime includes a reference to any conduct which—

(i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or

(ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;

and

(b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution

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brought in respect of any crime in a country or territory outside the United Kingdom."

Persons authorised by the Secretary of State

85 Power to apply 1984 Act provisions

After section 114 of the 1984 Act (application of Act to Customs and Excise) there shall be inserted—

"**114A Power to apply Act to officers of the Secretary of State etc.**

(1) The Secretary of State may by order direct that—
(a) the provisions of Schedule 1 to this Act so far as they relate to special procedure material, and
(b) the other provisions of this Act so far as they relate to the provisions falling within paragraph (a) above,

shall apply, with such modifications as may be specified in the order, for the purposes of investigations falling within subsection (2) as they apply for the purposes of investigations of offences conducted by police officers.

(2) An investigation falls within this subsection if—
(a) it is conducted by an officer of the department of the Secretary of State for Trade and Industry or by another person acting on that Secretary of State's behalf;
(b) it is conducted by that officer or other person in the discharge of a duty to investigate offences; and
(c) the investigation relates to a serious arrestable offence or to anything which there are reasonable grounds for suspecting has involved the commission of a serious arrestable offence.

(3) The investigations for the purposes of which provisions of this Act may be applied with modifications by an order under this section include investigations of offences committed, or suspected of having been committed, before the coming into force of the order or of this section.

(4) An order under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Execution of process in other domestic jurisdictions

86 Process for obtaining excluded and special procedure material

(1) In section 9 of the 1984 Act (which contains provision introducing the provisions of Schedule 1 to that Act for obtaining access to excluded and special procedure material), after subsection (2) there shall be inserted—

"(2A) Section 4 of the Summary Jurisdiction (Process) Act 1881 (c. 24) (which includes provision for the execution of process of English courts in Scotland) and section 29 of the Petty Sessions (Ireland) Act 1851 (c. 93) (which makes equivalent provision for execution in Northern Ireland) shall each apply to

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any process issued by a circuit judge under Schedule 1 to this Act as it applies to process issued by a magistrates' court under the Magistrates' Courts Act 1980 (c. 43)."

(2) In section 120(5) of that Act (provisions extending to the United Kingdom), after the entry for section 6(3) of that Act there shall be inserted—

"section 9(2A);".

(3) Section 27 of the Petty Sessions (Ireland) Act 1851 (which includes provision for the execution of process of Northern Ireland courts in other places) shall apply to any process issued by a county court judge under Schedule 1 to the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) as it applies to a warrant mentioned in that section.

PART 4

POLICE TRAINING

The Central Police Training and Development Authority

87 Establishment of the Authority

(1) There shall be a body corporate to be known as the Central Police Training and Development Authority (in this Part referred to as "the Authority").

(2) Schedule 3 (which makes provision about the Authority) shall have effect.

88 Functions of the Authority

(1) The functions of the Authority shall be—

(a) to provide police training and facilities for the provision of police training;

(b) to promote the value of the provision of police training;

(c) to give advice about the provision of police training to persons other than the Authority who provide it or are proposing to do so;

(d) to provide such persons with all such assistance in relation to the provision of police training as the Authority consider appropriate;

(e) to provide persons serving or employed for policing purposes in England and Wales with advice and consultancy services with respect to policing matters generally and with respect to best police practice and the handling of incidents requiring police involvement.

(2) It shall be the duty of the Authority to carry out their functions efficiently and effectively and in the manner which they consider is best calculated to secure—

(a) that professional excellence in persons serving or employed for policing purposes in England and Wales is promoted and developed;

(b) that facilities are maintained that represent a centre of excellence in the provision of police training for such persons;

(c) that the efficiency and effectiveness of police forces in England and Wales are enhanced; and

(d) that understanding of policing issues is shared internationally.

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(3) In carrying out their functions the Authority shall have regard to—

(a) any objectives for the time being determined for them and notified to them by the Secretary of State under section 89;

(b) the objectives determined by the Authority under section 90;

(c) any performance targets established by them, whether in compliance with a direction under section 91 or otherwise; and

(d) the training and development plan issued by them under section 92 for the current financial year.

(4) The Authority shall comply—

(a) with every direction given to them by the Secretary of State under section 91 or 93; and

(b) with all such other general or specific directions with respect to the carrying out of their functions as may be given to them in writing by the Secretary of State.

(5) The Authority may do anything that they consider is calculated to facilitate, or is conducive or incidental to, the carrying out of any of their functions.

(6) Subject to subsection (7), in this section—

(a) references to the provision of police training are references to the provision of training and opportunities for professional development for persons serving or employed for policing purposes in England and Wales; and

(b) references to the provision of training include references to the provision of assessment and examination services.

(7) The Authority shall be entitled, subject to subsections (2) to (4), to carry out their functions under subsection (1) as if the references in that subsection to the provision of police training included, to such extent and for such purposes as the Authority consider appropriate, references to the provision of training and opportunities for professional development for—

(a) persons serving with or employed for the purposes of any of the organisations or forces set out in subsection (8);

(b) park constables, within the meaning of the Parks Regulation Act 1872 (c. 15);

(c) special constables appointed under section 3 of the Special Constables Act 1923 (c. 11) on the nomination of the United Kingdom Atomic Energy Authority;

(d) any person who appears to the Authority to be a person to whom it would be appropriate to provide such training or opportunities in order to secure that the police training provided by the Authority is more effective or more beneficial;

(e) any person who appears to the Authority to be a person to whom it would be appropriate to provide any training or professional development in the provision of which the Authority have, for purposes connected with the carrying out of their functions, acquired a special expertise; and

(f) any other such person as the Secretary of State may by order specify for the purposes of this subsection.

(8) Those organisations and forces are—

(a) the National Criminal Intelligence Service;

(b) the National Crime Squad;

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(c) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77);
(d) the Police Service of Northern Ireland;
(e) the Police Service of Northern Ireland Reserve;
(f) the Ministry of Defence Police;
(g) the Royal Navy Regulating Branch;
(h) the Royal Military Police;
(i) the Royal Air Force Police;
(j) the Royal Marines Police;
(k) the British Transport Police;
(l) the States of Jersey Police Force;
(m) the salaried police force of the Island of Guernsey;
(n) the Isle of Man Constabulary; and
(o) any person with functions in any country or territory outside the British Islands which correspond to those of a police force in England and Wales.

(9) Any statutory instrument containing an order made by virtue of subsection (7)(f) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) References in this section to a person serving or employed for policing purposes in England and Wales are references to a person who is—
(a) a member of a police force in England and Wales;
(b) a special constable appointed under section 27 of the 1996 Act; or
(c) a person employed for the purposes of a police force in England and Wales.

89 Setting of objectives by the Secretary of State

(1) The Secretary of State may determine objectives for the Authority and may from time to time modify those objectives.

(2) The Secretary of State shall notify the Authority of any objectives that he has determined for them under this section and of any modification by him of those objectives.

(3) Before determining any objectives for the Authority under this section, the Secretary of State shall consult—
(a) the Authority;
(b) persons whom the Secretary of State considers to represent the interests of police authorities for areas in England and Wales; and
(c) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales.

90 The Authority's annual objectives

(1) The Authority shall, before the beginning of each financial year, determine their objectives for that year.

(2) Objectives determined under this section—
(a) may relate to matters to which objectives determined under section 89 also relate, or to other matters; but

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(b) shall, in any event, be so framed as to be consistent with the objectives determined under that section.

(3) Before determining objectives under this section, the Authority shall consult—
(a) Her Majesty's Inspectors of Constabulary;
(b) persons whom they consider to represent the interests of police authorities for areas in England and Wales; and
(c) persons whom they consider to represent the interests of chief officers of police of police forces in England and Wales.

91 Setting of performance targets

(1) Where an objective has been determined under section 89 and notified to the Authority, the Secretary of State may direct the Authority to establish levels of performance ("performance targets") to be aimed at in seeking to achieve the objective.

(2) A direction given under this section may impose conditions with which the performance targets must conform.

(3) The Secretary of State shall arrange for any direction given under this section to be published in such manner as appears to him to be appropriate.

92 Training and development plans

(1) The Authority shall, before the beginning of each financial year, issue a plan for that year ("a training and development plan") setting out the proposed arrangements for the carrying out by them of their functions during the year.

(2) The training and development plan for a financial year shall include a statement of—
(a) the Authority's priorities for the year;
(b) the financial resources expected to be available to the Authority for that year; and
(c) their proposed allocation of those resources.

(3) The training and development plan for a financial year shall also give particulars of—
(a) any objectives for the time being determined for them and notified to them by the Secretary of State under section 89;
(b) the objectives determined for that year by the Authority under section 90; and
(c) any performance targets established by them, whether in compliance with a direction under section 91 or otherwise.

(4) The Authority shall arrange for every training and development plan issued by them under this section to be published in such manner as they consider appropriate.

(5) The Authority shall also send a copy of every training and development plan issued by them under this section to each of the following—
(a) the Secretary of State;
(b) every police authority for an area in England and Wales; and
(c) every chief officer of police of a police force in England and Wales.

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93 Inspections of the Authority

(1) The Secretary of State may at any time require the inspectors of constabulary to carry out an inspection of the Authority under section 54 of the 1996 Act.

(2) Where a report made to the Secretary of State on an inspection of the Authority under that section states—

(a) that, in the opinion of the person making the report, the Authority are not carrying out their duties efficiently and effectively, or

(b) that in his opinion, unless remedial measures are taken, the Authority will cease to carry out their duties efficiently and effectively,

the Secretary of State may direct the Authority to take such measures as may be specified in the direction.

94 Power to require reports from the Authority

(1) The Secretary of State may require the Authority to submit to him a report on such matters connected with the carrying out of their functions as may be specified in the requirement.

(2) A report submitted under subsection (1) shall be in such form as the Secretary of State may specify.

(3) The Secretary of State may arrange, or require the Authority to arrange, for a report under this section to be published in such manner as appears to him to be appropriate.

95 Annual reports

(1) The Authority shall, as soon as possible after the end of each financial year, send to the Secretary of State a report on the carrying out of their functions during that year.

(2) A report issued under this section for any year shall include an assessment of the extent to which the Authority's training and development plan for that year issued under section 92 has been carried out.

(3) The Secretary of State shall lay a copy of each report before each House of Parliament.

96 Secretary of State's duty to promote efficiency etc. of Authority

The Secretary of State shall exercise his powers under this Part in relation to the Authority in such manner and to such extent as appears to him to be best calculated to promote the efficiency and effectiveness of the Authority.

Other provisions about training

97 Regulations for police forces

(1) The Secretary of State may make regulations as to—

(a) police training (within the meaning of section 88 above); and

(b) the qualifications for deployment to perform particular tasks of persons serving or employed for policing purposes in England and Wales.

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(2) Without prejudice to the generality of subsection (1), regulations made by virtue of paragraph (a) of that subsection may make provision with respect to the curriculum for courses of training for persons serving or employed for policing purposes in England and Wales, including the evaluation, approval and manner of devising the curriculum, or any part of it.

(3) In relation to any matter as to which provision may be made by regulations under this section, the regulations may—

(a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, police authorities, chief officers of police or other persons; or

(b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.

(4) Before making regulations under this section the Secretary of State shall consult—

(a) the Authority;

(b) Her Majesty's Inspectors of Constabulary;

(c) persons whom he considers to represent the interests of police authorities; and

(d) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales.

(5) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Subsection (10) of section 88 shall apply for construing references in this section to persons serving or employed for policing purposes in England and Wales as it applies for construing any such references in that section.

Commencement Information

I8 S. 97 wholly in force at 1.4.2002; s. 97 not in force at Royal Assent see s. 138; s. 97(1)-(3)(4)(b)-(d)(5)(6) in force at 1.10.2001 by S.I. 2001/3150, art. 2(b); s. 97(4)(a) in force at 1.4.2002 by S.I. 2002/533, **art. 2**

98 Directions after inspection identifies training needs

(1) Where a report made to the Secretary of State on an inspection under section 54 of the 1996 Act (functions of inspectors of constabulary) contains recommendations in the case of any police force for the taking of measures relating to—

(a) the provision of training, or

(b) the provision of opportunities for professional development,

the Secretary of State may direct the police authority responsible for maintaining that force to take such measures relating to those matters as may be specified in the direction.

(2) A police authority shall comply with any direction given to it under this section.

99 Joint provision of training

For section 23(6) of the 1996 Act (collaboration agreements) there shall be substituted—

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"(6) In subsection (1)—

(a) the reference to members of a police force includes a reference to special constables appointed for the area for which that force is maintained, and

(b) the reference to police functions includes a reference to functions with respect to training and the provision of opportunities for professional development."

Supplemental provisions in relation to police training

100 Orders and regulations under Part 4

(1) Any power of the Secretary of State to make orders or regulations under this Part shall be exercisable by statutory instrument.

(2) Any order or regulations made by the Secretary of State under this Part may make different provision for different cases.

101 Interpretation of Part 4

(1) In this Part—

"the Authority" means the Central Police Training and Development Authority; and

"financial year" means a period of twelve months ending with 31st March.

(2) For the purposes of this Part the Commissioner of Police for the City of London shall be deemed to be a member of the City of London police force.

102 Consequential amendments relating to police training

The enactments specified in Schedule 4 (amendments consequential on the provisions of this Part) shall have effect with the amendments set out in that Schedule.

103 Transitional arrangements relating to Authority's establishment etc.

(1) The Secretary of State may, in connection with the coming into force of any provision of this Part, by order make such transitional provision and savings (including provision modifying this Part) as he thinks fit.

(2) The Secretary of State may, for the purpose of facilitating the carrying out by the Authority of their functions or in connection with the coming into force of any provision of this Part, by order make such provision as he thinks fit—

(a) for the transfer and apportionment of property and for the transfer, apportionment and creation of rights and liabilities;

(b) for the transfer of members of police forces in England and Wales and other persons.

(3) An order under this section may—

(a) provide for the Secretary of State, or any other person nominated by or in accordance with the order, to determine any matter requiring determination under or in consequence of the order; and

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(b) make provision as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of paragraph (a).

(4) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART 5

POLICE ORGANISATION

Extent Information

E1 Pt. V (ss. 104-128) extended to UK so far as relating to the National Criminal and Intelligence Service, see s. 138(6)(d) as enacted; by Serious Organised Crime and Police Act 2005 c. 15, ss. 59, 174(2), Sch. 4 para. 167, { Sch. 17 Pt. 2} and The Serious Organised Crime and Police Act 2005 (Commencement No. 5 and Transitional and Transitory Provisions and Savings) Order 2006 (S.I. 2006/378), **art. 4(1)**, Sch. paras. 10, 13(ll), the said s. 138(6)(d) was repealed (1.4.2006)

Police authorities etc.

104 Vice-chairmen

(1) In Schedule 2 to the 1996 Act (police authorities outside London), after paragraph 9 there shall be inserted—

"**Vice-chairmen**

9A (1) At an annual meeting a police authority may appoint one or more vice-chairmen from among its members.

(2) The making of appointments under sub-paragraph (1) shall be the first business transacted at the meeting after the appointment of the chairman.

(3) Where a vice-chairman ceases to hold office at any time between annual meetings, a police authority may make an appointment to fill the vacancy at any meeting of the authority held more than fourteen days after the occurrence of the vacancy.

(4) Subject to any standing orders made by a police authority, anything authorised or required to be done by, to or before their chairman may be done by, to or before any vice-chairman of the authority."

(2) In Schedule 2A to that Act (the Metropolitan Police Authority), after paragraph 6 there shall be inserted—

"**Vice-chairmen**

6A (1) At an annual meeting the Metropolitan Police Authority may appoint one or more vice-chairmen from among its members.

(2) The making of appointments under sub-paragraph (1) shall be the first business transacted at the meeting after the appointment of the chairman.

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(3) Where a vice-chairman ceases to hold office at any time between annual meetings, the Metropolitan Police Authority may make an appointment to fill the vacancy at any meeting of the Authority held more than fourteen days after the occurrence of the vacancy.

(4) Subject to any standing orders made by the Metropolitan Police Authority, anything authorised or required to be done by, to or before their chairman may be done by, to or before any vice-chairman of the authority."

(3) In Schedule 1 to the 1997 Act, the following paragraph shall be inserted at the end of Part 1—

"6B (1) The Secretary of State may appoint one of the core members to be the vice-chairman of both the NCS Service Authority and the NCIS Service Authority.

(2) Before making an appointment under this paragraph, the Secretary of State shall consult the Scottish Ministers.

(3) Subject to any provision made by the NCS Service Authority or the NCIS Service Authority under paragraph 3 of Schedule 2A, anything authorised or required to be done by, to or before their chairman may be done by, to or before any vice-chairman of the authority."

(4) In the following provisions (tenure of office, eligibility for reappointment and validity of acts of chairman and members of police authorities etc.)—

(a) paragraphs 17(1) and 21 to 23 of Schedule 2 to the 1996 Act,

(b) paragraphs 12(1) and 16 to 18 of Schedule 2A to that Act, and

(c) paragraphs 6(1)(a) and (2), 8(1) and (3), 12 and 15 of Schedule 2 to the 1997 Act,

after "chairman", wherever it occurs, there shall be inserted " or vice-chairman ".

(5) In paragraph 24 of Schedule 2 to the 1996 Act, paragraph 19 of Schedule 2A to that Act and paragraph 16 of Schedule 2 to the 1997 Act (validity of acts)—

(a) after "of chairman", in each case, there shall be inserted, " by a vacancy for a vice-chairman "; and

(b) after "as chairman", in each case, there shall be inserted " or vice-chairman ".

(6) In paragraph 25 of Schedule 2 to the 1996 Act (allowances for members of police authorities)—

(a) in sub-paragraph (1), after "chairman" there shall be inserted " , vice-chairmen "; and

(b) in sub-paragraph (2), after "chairman," there shall be inserted " a vice-chairman, ".

(7) In paragraph 20 of Schedule 2A to the 1996 Act (allowances for members of the Metropolitan Police Authority etc.)—

(a) in sub-paragraph (1), after "chairman" there shall be inserted " , vice-chairmen "; and

(b) in sub-paragraph (3), after "chairman," there shall be inserted " a vice-chairman, ".

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(8) In paragraph 17 of Schedule 2 to the 1997 Act (allowances for members of the Service Authorities for NCIS and NCS)—

(a) in sub-paragraph (1), after "chairman" there shall be inserted " , vice-chairmen "; and

(b) in sub-paragraph (3), after "chairman," there shall be inserted " a vice-chairman, ".

(9) In paragraph 6B(b) of Schedule 12 to the Local Government Act 1972 (c. 70) (persons to preside in the case of a police authority in the absence of the chairman), for the words from "another member" to "preside" there shall be substituted "the following person shall preside—

(i) in a case in which only one vice-chairman is present at the meeting, that vice-chairman;

(ii) in a case in which more than one vice-chairman is present at the meeting, the vice-chairman chosen by the members present; and

(iii) in any other case, the member chosen by the members present;".

Commencement Information

I9 S. 104 wholly in force at 1.4.2002; s. 104 not in force at Royal Assent see s. 138; s. 104 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(1)(b); s. 104 in force at 1.4.2002 insofar as not already in force by S.I. 2002/344, **art. 3** (with art. 4)

105 Political balance on police authorities

(1) In paragraph 4(1) of Schedule 2 to the 1996 Act (balance of parties on council to be reflected in appointments to police authority), for the words from "the members for" onwards there shall be substituted "in the case of the members for whose appointment it is responsible, the proportion who are members of any given party—

(a) where it is a council that is responsible for their appointment, is the same as the proportion of the members of the council who are members of that party; and

(b) where it is a joint committee that is so responsible, is the same as the proportion of the members of the relevant councils taken as a whole who are members of that party."

(2) In paragraph 2(3) of Schedule 2A to that Act (which makes corresponding provision for the Metropolitan Police Authority), for the words from "the members for" onwards there shall be substituted " in the case of the members of the Authority who are members of the London Assembly appointed under this paragraph, the proportion who are members of any given party is the same as the proportion of the members of the London Assembly who are members of that party ".

Commencement Information

I10 Ss. 104-106 partly in force; ss. 104-106 not in force at Royal Assent see s. 138; ss. 104-106 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, **art. 2(1)(b)**

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

106 Removal of age qualification for membership

(1) The following provisions (which disqualify persons of more than seventy years old from membership of police authorities etc. and from selection panels of police authorities) shall cease to have effect—

(a) paragraph 10 of Schedule 2 to the 1996 Act (police authorities outside London);

(b) paragraph 1(b) of Schedule 2 to the 1997 Act (service authorities for the National Crime Squad and the National Criminal Intelligence Service).

(2) Accordingly, in paragraphs 12 to 14 of Schedule 2 to the 1996 Act, for the words "paragraphs 10 and 11", wherever they occur, there shall be substituted " paragraph 11 ".

Commencement Information

I11 S. 106 wholly in force at 1.4.2002; s. 106 not in force at Royal Assent see s. 138; s. 106 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(1)(b); s. 106 in force at 1.4.2002 in so far as not already in force by S.I. 2002/344, **art. 3** (with art. 4)

107 Payment of allowances to authority members etc.

(1) In each of the following provisions (which provide for the members of certain authorities to be made such payments by way of reimbursement of expenses and allowances as the Secretary of State may determine), the words "and allowances" shall be omitted—

(a) paragraph 25(1) of Schedule 2 to the 1996 Act (police authorities outside London);

(b) paragraph 20(1) of Schedule 2A to that Act (the Metropolitan Police Authority);

(c) paragraph 17(1) of Schedule 2 to the 1997 Act (the authorities for NCS and NCIS).

(2) After paragraph 25 of Schedule 2 to the 1996 Act (the police authorities outside London) there shall be inserted—

"**Allowances for members etc.**

25A (1) Subject to the following provisions of this paragraph, a police authority may make to its chairman, vice-chairmen and other members such payments by way of allowances as the authority may determine.

(2) Subject to sub-paragraph (6), no payment shall be made under this paragraph except in accordance with arrangements published by the authority not more than twelve months before the making of the payment.

(3) A police authority may from time to time revise any arrangements made for the purposes of this paragraph; but, no revisions shall take effect until published by the authority.

(4) It shall be the duty of a police authority, when making or revising any arrangements made for the purposes of this paragraph, to have regard

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to any guidance given by the Secretary of State about the payment of allowances.

(5) Payments made under this paragraph may differ according to whether the recipient is the chairman, a vice chairman or other member or is appointed under paragraph 2, 5 or 8.

(6) The Secretary of State may by regulations impose such limits as may be provided for by or under the regulations on the payments that may be made under this paragraph.

(7) A statutory instrument containing regulations under sub-paragraph (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Members of standards committees

25B Paragraphs 25 and 25A shall have effect in relation to a police authority as if references to members of the authority included references to persons who are not members of the authority but are members of the authority's standards committee; and the power to make different payments according to the recipient shall include power to make different payments to persons who are not members of the authority but are members of the authority's standards committee."

(3) After paragraph 20 of Schedule 2A to that Act (the Metropolitan Police Authority) there shall be inserted—

"**Allowances for members etc.**

20A (1) Subject to the following provisions of this paragraph, the Metropolitan Police Authority may make to its chairman, vice-chairmen and other members such payments by way of allowances as that Authority may determine.

(2) Subject to sub-paragraphs (6) and (7), no payment shall be made under this paragraph except in accordance with arrangements published by the Metropolitan Police Authority not more than twelve months before the making of the payment.

(3) The Metropolitan Police Authority may from time to time revise any arrangements made for the purposes of this paragraph; but, no revisions shall take effect until published by that Authority.

(4) It shall be the duty of the Metropolitan Police Authority, when making or revising any arrangements made for the purposes of this paragraph, to have regard to any guidance given by the Secretary of State about the payment of allowances.

(5) Payments made under this paragraph may differ according to whether the recipient is the chairman, a vice chairman or one of the other members of the Metropolitan Police Authority, or is appointed under paragraph 3 or 5.

(6) No payment shall be made under this paragraph to any member of the Metropolitan Police Authority who is also a member of the London Assembly.

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(7) The Secretary of State may by regulations impose such limits as may be provided for by or under the regulations on the payments that may be made under this paragraph.

(8) A statutory instrument containing regulations under sub-paragraph (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Members of standards committees

20B Paragraphs 20 and 20A shall have effect in relation to the Metropolitan Police Authority as if references to the members of that Authority included references to persons who are not members of that Authority but are members of the Authority's standards committee; and the power to make different payments according to the recipient shall include power to make different payments to persons who are not members of that Authority but are members of the Authority's standards committee."

(4) After paragraph 17 of Schedule 2 to the 1997 Act (the Service Authorities for NCS and NCIS), there shall be inserted—

"**Allowances for members etc.**

17A (1) Subject to the following provisions of this paragraph, a Service Authority may make to its chairman, vice-chairmen and other members such payments by way of allowances as that Service Authority may determine.

(2) Subject to sub-paragraphs (6) and (7), no payment shall be made under this paragraph except in accordance with arrangements published by the Service Authority not more than twelve months before the making of the payment.

(3) A Service Authority may from time to time revise any arrangements made for the purposes of this paragraph; but, no revisions shall take effect until published by that Authority.

(4) It shall be the duty of a Service Authority, when making or revising any arrangements made for the purposes of this paragraph, to have regard to any guidance given by the Secretary of State about the payment of allowances.

(5) Payments made under this paragraph may differ according to whether the recipient is the chairman, a vice chairman a core member or another member.

(6) No payment shall be made under this paragraph to—

(a) any member of a Service Authority appointed under paragraph 3, 6 or 6A of Schedule 1,

(b) any member of a Service Authority appointed, otherwise than by virtue of his being within paragraph 7A(1)(b) or 7B(1)(b), under paragraph 7A of that Schedule; or

(c) any member of a Service Authority appointed under paragraph 8(1)(b), (c), (d), (h), (ha) or (i), 9(1)(a) or 10(1)(b) of that Schedule.

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Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) The Secretary of State may by regulations impose such limits as may be provided for by or under the regulations on the payments that may be made under this paragraph.

(8) A statutory instrument containing regulations under sub-paragraph (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Commencement Information

I12 S. 107 wholly in force at 1.4.2002; s. 107 not in force at Royal Assent see s. 138; s. 107(1)(a)(b)(2)(3) in force at 1.12.2001 by S.I. 2001/3736, art. 2(c); s. 107(1)(c)(4) in force at 1.4.2002 by S.I. 2002/344, **art. 3** (with art. 4)

Constitution of the Service Authorities for NCIS and NCS

108 Number and appointment of members

(1) In section 1 of the 1997 Act (establishment of the Service Authority for the National Criminal Intelligence Service), in each of subsections (2) and (3) (which make provision about the number of members of the Authority), for "nineteen" there shall be substituted " eleven ".

(2) In section 47 of the 1997 Act (establishment of the Service Authority for the National Crime Squad), in each of subsections (2) and (3) (which make provision about the number of members of the Authority), for "seventeen" there shall be substituted " eleven ".

(3) Schedule 5 (which amends the provision made for the appointment of members of the Service Authorities in Schedule 1 to the 1997 Act) shall have effect.

109 Transitional provision relating to section 108 etc

(1) An order under section 138(2) bringing into force section 108 and Schedule 5 may include such transitional provision as appears to the Secretary of State to be necessary or expedient.

(2) In particular, such an order may—

(a) provide that the persons who are members of one or both of the Service Authorities, immediately before the relevant provisions come into force, shall be treated as having resigned, in accordance with Schedule 2 to the 1997 Act, at that time;

(b) make provision to ensure that members ("the new members") are appointed to the Service Authorities in accordance with the 1997 Act, as amended by this Act, with effect from the time the relevant provisions come into force; and

(c) provide that (notwithstanding the coming into force of the relevant provisions and the appointment of the new members) for such purposes and in respect of such period as may be specified in the order—

(i) Parts 1 and 2 of the 1997 Act shall continue to have effect as if sections 108 and 128 of, and Schedules 5 and 6 to, this Act had not been enacted, and

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(ii) any provision made under paragraph (a) shall not apply.

(3) For the purposes of subsection (2)—

"the relevant provisions" means section 108 and Schedule 5; and

"the Service Authorities" means the Service Authority for the National Criminal Intelligence Service and the Service Authority for the National Crime Squad.

(4) In relation to any time before the coming into force of section 2(3) of the Police (Northern Ireland) Act 2000 (c. 32), the references to the Northern Ireland Policing Board in paragraph 7B of Schedule 1 to the 1997 Act (inserted by Schedule 5 to this Act) shall be construed as references to the Police Authority for Northern Ireland.

Financial provisions for NCIS Service Authority

110 Preparation of budget statement by NCIS Service Authority

After section 16 of the 1997 Act (NCIS service fund) there shall be inserted—

"**16A Budget statement**

(1) The NCIS Service Authority shall, before the beginning of each financial year, submit to the Secretary of State a budget statement for that year.

(2) In this section references to a budget statement for a financial year are to a statement of the amount which the Authority estimates it requires by way of grant under section 17 for that year.

(3) In preparing a budget statement for a financial year, the Authority shall take account of—

(a) the expenditure which the Director General of NCIS estimates will be incurred in connection with NCIS in the year,

(b) any income which it is estimated will be received in that year, whether by way of payments under section 18A or by way of charges imposed by the Authority under section 19, or otherwise,

(c) the financial reserves of the Authority and the reserves which it estimates it will be appropriate to raise in the year for meeting its estimated future expenditure,

(d) the current and proposed level of borrowing of the Authority,

(e) the views of all members of the Authority, and

(f) such other matters as may be prescribed.

(4) A budget statement submitted under subsection (1) shall be in such form, and contain such information, as may be prescribed.

(5) Where the NCIS Service Authority has submitted a budget statement for a financial year, it shall notify the Secretary of State, as soon as is practicable, of any change in circumstances which results in a material change (whether an increase or a reduction) in the amount required (or expected to be required) by it by way of grant under section 17 for that year.

(6) In this section "prescribed" means prescribed by an order made by the Secretary of State.

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Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons."

111 Funding of NCIS Service Authority

For section 17 of the 1997 Act (which empowers the NCIS Service Authority to issue levies to police authorities in England and Wales) there shall be substituted—

"**17 Grants from the Secretary of State**

(1) The Secretary of State shall for each financial year make a grant to the NCIS Service Authority.

(2) If the Authority fails, in relation to a financial year,—
   (a) to submit to the Secretary of State a budget statement in accordance with section 16A, or
   (b) to comply with a requirement under section 17A(1),

   subsection (1) above shall not apply in respect of that year, but the Secretary of State may make a grant to the Authority for that year.

(3) For every financial year the Secretary of State shall determine the amount of the grant to be made under this section; and a determination under this subsection may be varied by a subsequent determination under this subsection.

(4) If the Secretary of State considers it appropriate, he may make any payment of grant under this section on conditions.

(5) 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.

17A Provision supplemental to section 17

(1) The Secretary of State may require the NCIS Service Authority to provide him, in connection with the exercise of his functions under section 17, with such information as he may specify, within such period as he may specify.

(2) Where the Secretary of State makes a determination under section 17, he shall prepare a report—
   (a) setting out the determination (including any conditions imposed by virtue of section 17(4)), and
   (b) stating the considerations which he took into account in making it.

(3) A copy of every report prepared under subsection (2) shall—
   (a) be sent to the NCIS Service Authority, and
   (b) be laid before the House of Commons.

(4) A grant to the NCIS Service Authority under section 17 shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may determine; and any such time may fall within or after the financial year concerned.

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(5) Where in consequence of a further determination under section 17(3) the amount of the Authority's grant is less than the amount already paid to it for the year, a sum equal to the difference shall be paid by the Authority to the Secretary of State at such time as he may specify."

112 Duty of NCIS Service Authority to prepare accounts

After section 21 of the 1997 Act (pensions and gratuities) there shall be inserted—

"**21A Accounts**

(1) The NCIS Service Authority shall—
(a) keep proper accounts and proper records in relation to the accounts,
(b) prepare a statement of accounts in respect of each financial year, and
(c) send copies of the statement to the Secretary of State and the Comptroller and Auditor General within such period following the end of the financial year to which it relates as the Secretary of State may specify.

(2) A statement of accounts under subsection (1) shall be in such form, and contain such information, as the Secretary of State may direct.

(3) Before specifying a period for the purposes of subsection (1)(c), or giving a direction under subsection (2), the Secretary of State must consult the Scottish Ministers.

(4) The Comptroller and Auditor General shall—
(a) examine, certify and report on the statement of accounts, and
(b) lay copies of the statement and of his report before each House of Parliament."

Financial provisions for NCS Service Authority

113 Preparation of budget statement by NCS Service Authority

After section 61 of the 1997 Act (NCS service fund) there shall be inserted—

"**61A Budget statement**

(1) The NCS Service Authority shall, before the beginning of each financial year, submit to the Secretary of State a budget statement for that year.

(2) In this section references to a budget statement for a financial year are to a statement of the amount which the Authority estimates it requires by way of grant under section 62 for that year.

(3) In preparing a budget statement for a financial year, the Authority shall take account of—
(a) the expenditure which the Director General of the National Crime Squad estimates will be incurred in connection with the National Crime Squad in the year,

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(b) any income which it is estimated will be received in that year, whether by way of charges imposed by the Authority under section 64, or otherwise,

(c) the financial reserves of the Authority and the reserves which it estimates it will be appropriate to raise in the year for meeting its estimated future expenditure,

(d) the current and proposed level of borrowing of the Authority,

(e) the views of all members of the Authority, and

(f) such other matters as may be prescribed.

(4) A budget statement submitted under subsection (1) shall be in such form, and contain such information, as may be prescribed.

(5) Where the NCS Service Authority has submitted a budget statement for a financial year, it shall notify the Secretary of State, as soon as is practicable, of any change in circumstances which results in a material change (whether an increase or a reduction) in the amount required (or expected to be required) by it by way of grant under section 62 for that year.

(6) In this section "prescribed" means prescribed by an order made by the Secretary of State.

(7) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the House of Commons."

114 Funding of NCS Service Authority

For section 62 of the 1997 Act (which empowers the NCS Service Authority to issue levies to police authorities in England and Wales) there shall be substituted—

"**62 Grants from the Secretary of State**

(1) The Secretary of State shall for each financial year make a grant to the NCS Service Authority.

(2) If the Authority fails, in relation to a financial year,—

(a) to submit to the Secretary of State a budget statement in accordance with section 61A, or

(b) to comply with a requirement under section 62A(1),

subsection (1) above shall not apply in respect of that year, but the Secretary of State may make a grant to the Authority for that year.

(3) For every financial year the Secretary of State shall determine the amount of the grant to be made under this section; and a determination under this subsection may be varied by a subsequent determination under this subsection.

(4) If the Secretary of State considers it appropriate, he may make any payment of grant under this section on conditions.

(5) 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.

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62A Provision supplemental to section 62

(1) The Secretary of State may require the NCS Service Authority to provide him, in connection with the exercise of his functions under section 62, with such information as he may specify, within such period as he may specify.

(2) Where the Secretary of State makes a determination under section 62 he shall prepare a report—
  (a) setting out the determination (including any conditions imposed by virtue of section 62(4)), and
  (b) stating the considerations which he took into account in making it.

(3) A copy of every report prepared under subsection (2) shall—
  (a) be sent to the NCS Service Authority, and
  (b) be laid before the House of Commons.

(4) A grant to the NCS Service Authority under section 62 shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may determine; and any such time may fall within or after the financial year concerned.

(5) Where in consequence of a further determination under section 62(3) the amount of the Authority's grant is less than the amount already paid to it for the year, a sum equal to the difference shall be paid by the Authority to the Secretary of State at such time as he may specify."

115 Duty of NCS Service Authority to prepare accounts

After section 66 of the 1997 Act (pensions and gratuities) there shall be inserted—

"**66A Accounts**

(1) The NCS Service Authority shall—
  (a) keep proper accounts and proper records in relation to the accounts,
  (b) prepare a statement of accounts in respect of each financial year, and
  (c) send copies of the statement to the Secretary of State and the Comptroller and Auditor General within such period following the end of the financial year to which it relates as the Secretary of State may specify.

(2) A statement of accounts under subsection (1) shall be in such form, and contain such information, as the Secretary of State may direct.

(3) The Comptroller and Auditor General shall—
  (a) examine, certify and report on the statement of accounts, and
  (b) lay copies of the statement and of his report before each House of Parliament."

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Director General and other members of NCIS

116 Appointment of NCIS Director General

(1) Section 6 of the 1997 Act (appointment of Director General) shall be amended as follows.

(2) In subsection (1)—

(a) for "NCIS Service Authority" there shall be substituted " Secretary of State ", and

(b) for "the Authority" there shall be substituted " he ".

(3) After that subsection, there shall be inserted—

"(1A) The NCIS Service Authority shall pay to the Director General such remuneration and allowances as the Secretary of State may determine."

(4) In subsection (2)—

(a) for "a panel of members of the Authority" there shall be substituted " the Secretary of State ",

(b) for "that panel" there shall be substituted " a panel of members of the NCIS Service Authority ", and

(c) the words "after consultation with the Scottish Ministers" shall be omitted.

(5) After subsection (2) there shall be inserted—

"(2A) Where an appointment falls to be made under this section and a list has been approved by the Secretary of State for the purposes of subsection (2), the panel mentioned in that subsection may make, to the Secretary of State, such recommendations as it thinks fit.

(2B) Before making an appointment under this section, the Secretary of State shall—

(a) have regard to any recommendations made to him under subsection (2A), and

(b) consult the Scottish Ministers."

(6) In subsection (4)(a), the words "(other than under paragraph 6, 7(f) or 8(1)(h) of Schedule 1)" shall be omitted.

(7) An order under section 138(2) bringing into force subsections (1) to (6) of this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient.

Commencement Information

I13 S. 116 wholly in force at 1.4.2002; s. 116(7) in force at Royal Assent, see s. 138(2)-(4); s. 116(1)-(6) in force at 1.4.2002 by S.I. 2002/344, **art. 3** (with art. 4)

117 Removal of NCIS members (other than the Director General)

After section 9 of the 1997 Act (members of NCIS) there shall be inserted—

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"**9A Removal of certain members appointed under section 9**

(1) Without prejudice to section 21 or to any regulations under section 37 or under the Police Pensions Act 1976 (c. 35), the NCIS Service Authority, acting with the approval of the Secretary of State, may call upon a member of NCIS appointed under section 9 to retire in the interests of efficiency or effectiveness.

(2) Subsection (1) does not apply to any member of NCIS appointed by the Director General by virtue of section 9(8).

(3) Before seeking the approval of the Secretary of State for the purposes of subsection (1), the Authority shall give the member concerned an opportunity to make representations and shall consider any representations that he makes.

(4) Before giving an approval for the purposes of subsection (1), the Secretary of State shall consult the Scottish Ministers.

(5) A member who is called upon to retire under subsection (1) shall retire on such date as the Authority may specify or on such earlier date as may be agreed between him and the Authority."

118 Removal of NCIS Director General, etc.

(1) In section 29 of the 1997 Act (removal of Director General at direction of the Secretary of State) for subsections (1) to (3) there shall be substituted—

"(1) Without prejudice to section 21 or to any regulations under section 37 or under the Police Pensions Act 1976 (c. 35), the Secretary of State may—

(a) call upon the Director General of NCIS to retire in the interests of efficiency or effectiveness, or

(b) require the NCIS Service Authority to exercise its power under section 9A to call upon a member of NCIS (other than a member to which subsection (2) of that section applies) to retire in the interests of efficiency or effectiveness.

(2) Before exercising his powers under subsection (1)(a) in relation to the Director General, or under subsection (1)(b) in relation to any other member, the Secretary of State shall—

(a) give the person concerned an opportunity to make representations,

(b) consider any representations that he makes, and

(c) consult the Scottish Ministers.

(3) Where representations are made under subsection (2), the Secretary of State may, and in a case where he proposes to exercise his power under subsection (1)(a) or (b) shall, appoint one or more persons to hold an inquiry and report to him."

(2) After subsection (6) of that section there shall be inserted—

"(7) A Director General who is called upon to retire under subsection (1)(a) shall retire on such date as the Secretary of State may specify or on such earlier date as may be agreed between the Director General and the Secretary of State."

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Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Director General and other members of NCS

119 Appointment of NCS Director General

(1) Section 52 of the 1997 Act (appointment of Director General) shall be amended as follows.

(2) In subsection (1)—

(a) for "NCS Service Authority" there shall be substituted " Secretary of State ", and

(b) for "the Authority" there shall be substituted " he ".

(3) After that subsection, there shall be inserted—

"(1A) The NCS Service Authority shall pay to the Director General such remuneration and allowances as the Secretary of State may determine."

(4) In subsection (2)—

(a) for "a panel of members of the Authority" there shall be substituted " the Secretary of State ", and

(b) for "that panel" there shall be substituted " a panel of members of the NCS Service Authority ".

(5) After subsection (2), there shall be inserted—

"(2A) Where an appointment falls to be made under this section and a list has been approved by the Secretary of State for the purposes of subsection (2), the panel mentioned in that subsection may make, to the Secretary of State, such recommendations as it thinks fit.

(2B) Before making an appointment under this section, the Secretary of State shall have regard to any recommendations made to him under subsection (2A)."

(6) In subsection (4)(a), the words "(other than under paragraph 6 of Schedule 1)" shall be omitted.

(7) An order under section 138(2) bringing into force subsections (1) to (6) above may make such transitional provision as appears to the Secretary of State to be necessary or expedient.

Commencement Information

I14 S. 119 wholly in force at 1.4.2002; s. 119(7) in force at Royal Assent, see s. 138(2)-(4); s. 119(1)-(6) in force at 1.4.2002 by S.I. 2002/344, **art. 3** (with art. 4)

120 Removal of NCS members (other than the Director General)

After section 55 of the 1997 Act (members of the National Crime Squad) there shall be inserted—

"55A Removal of certain members appointed under section 55

(1) Without prejudice to section 66 or to any regulations under section 81 or under the Police Pensions Act 1976 (c. 35), the NCS Service Authority, acting with

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the approval of the Secretary of State, may call upon a member of the National Crime Squad appointed under section 55 to retire in the interests of efficiency or effectiveness.

(2) Subsection (1) does not apply to any member of the National Crime Squad appointed by the Director General by virtue of section 55(8).

(3) Before seeking the approval of the Secretary of State for the purposes of subsection (1), the Authority shall give the member concerned an opportunity to make representations and shall consider any representations that he makes.

(4) A member who is called upon to retire under subsection (1) shall retire on such date as the Authority may specify or on such earlier date as may be agreed between him and the Authority."

121 Removal of NCS Director General etc.

(1) In section 74 of the 1997 Act (removal of Director General at direction of Secretary of State), for subsections (1) to (3) there shall be substituted—

"(1) Without prejudice to section 66 or to any regulations under section 81 or under the Police Pensions Act 1976 (c. 35), the Secretary of State may—

(a) call upon the Director General of the National Crime Squad to retire in the interests of efficiency or effectiveness, or

(b) require the NCS Service Authority to exercise its power under section 55A to call upon a member of the National Crime Squad (other than a member to which subsection (2) of that section applies) to retire in the interests of efficiency or effectiveness.

(2) Before exercising his powers under subsection (1)(a) in relation to the Director General, or under subsection (1)(b) in relation to any other member, the Secretary of State shall—

(a) give the person concerned an opportunity to make representations, and

(b) consider any representations that he makes.

(3) Where representations are made under subsection (2), the Secretary of State may, and in a case where he proposes to exercise his power under subsection (1)(a) or (b) shall, appoint one or more persons to hold an inquiry and report to him."

(2) After subsection (6) of that section there shall be inserted—

"(7) A Director General who is called upon to retire under subsection (1)(a) shall retire on such date as the Secretary of State may specify or on such earlier date as may be agreed between the Director General and the Secretary of State."

Police ranks

122 Deputy Assistant Commissioners of Police of the Metropolis

(1) Before section 9G of the 1996 Act (appointment and removal of Commanders in the metropolitan police force), there shall be inserted—

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"9FA **Appointment and removal of Deputy Assistant Commissioners**

(1) The ranks that may be held in the metropolitan police force shall include that of Deputy Assistant Commissioner of Police of the Metropolis ("Deputy Assistant Commissioner").

(2) Any appointment of a Deputy Assistant Commissioner shall be made by the Metropolitan Police Authority, but subject to the approval of the Secretary of State and to regulations under section 50.

(3) Subsections (1) to (3) of section 9E shall apply in relation to a Deputy Assistant Commissioner as they apply in relation to the Commissioner of Police of the Metropolis.

(4) Subsection (3) of this section is without prejudice to—
(a) any regulations under section 50, or
(b) any regulations under the Police Pensions Act 1976 (c. 35)."

(2) In section 9H(2) of that Act (ranks that may be held in the metropolitan police force), for "and" at the end of paragraph (c) there shall be substituted—
"(ca) Deputy Assistant Commissioner of Police of the Metropolis, and".

(3) In section 42(5) of that Act (application of section 42 to the powers of the Metropolitan Police Authority to call upon Commissioner of Police of the Metropolis etc. to resign), for "or" at the end of paragraph (c) there shall be substituted—
"(ca) a Deputy Assistant Commissioner of Police of the Metropolis, or".

123 Appointment and removal of deputy chief constables

(1) After section 11 of the 1996 Act (appointment and removal of chief constables), there shall be inserted—

"**11A Appointment and removal of deputy chief constables**

(1) Every police force maintained under section 2 shall have a deputy chief constable.

(2) The appointment of a person to be the deputy chief constable of a police force shall be made, in accordance with regulations under section 50, by the police authority responsible for maintaining that force, but only after consultation with the chief constable and subject to the approval of the Secretary of State.

(3) Subsections (2) to (4) of section 11 shall apply in relation to a deputy chief constable as they apply in relation to a chief constable."

(2) In section 13 of that Act (ranks that may be held in police forces)—
(a) in subsection (1), after "chief constable" there shall be inserted " , deputy chief constable "; and
(b) subsection (2) shall be omitted.

(3) In section 42 of that Act (removal of chief constables, etc.)—
(a) in subsection (2)—

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(i) after "with respect to" there shall be inserted " a deputy chief constable or ";

(ii) for "or assistant chief constable" there shall be substituted " , the deputy chief constable or, as the case may be, the assistant chief constable ";

and

(b) in subsection (4), after "chief constable" there shall be inserted " , deputy chief constable ".

124 Power of deputy to exercise functions of chief constable

(1) In section 12 of the 1996 Act (assistant chief constable), subsections (4) to (6) shall be omitted.

(2) After that section, there shall be inserted—

"**12A Power of deputy to exercise functions of chief constable**

(1) A deputy chief constable of a police force may exercise or perform any or all of the powers or duties of the chief constable of that force—

(a) during any absence, incapacity or suspension from duty of the chief constable,

(b) during any vacancy in the office of the chief constable, or

(c) at any other time, with the consent of the chief constable.

(2) A police authority responsible for maintaining a police force may designate a person holding the rank of assistant chief constable in that force to exercise or perform any or all of the powers or duties of the chief constable of that force—

(a) during any absence, incapacity or suspension from duty of both the chief constable and the deputy chief constable, or

(b) during any vacancy in the offices of both the chief constable and the deputy chief constable.

(3) Only one person shall be authorised to act at any one time by virtue of a designation under subsection (2).

(4) The power to act by virtue of subsection (1)(a) or (b) or subsection (2) shall not be exercisable for a continuous period exceeding three months except with the consent of the Secretary of State.

(5) The provisions of subsections (1) and (2) shall be without prejudice to any other enactment that makes provision for the exercise by any other person of powers conferred on a chief constable."

125 Chief superintendents

(1) In section 9H(2) of the 1996 Act (ranks that shall be prescribed for the metropolitan police force), after "those of" there shall be inserted " chief superintendent, ".

(2) In section 13(1) of that Act (ranks that shall be prescribed for other police forces), after "ranks of" there shall be inserted " chief superintendent, ".

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(3) In the provisions of that Act that are set out in subsection (4), before the word "superintendent", wherever occurring, there shall be inserted " chief ".

(4) Those provisions are—
- (a) section 50(3) (meaning of "senior officer" for the purposes of proceedings in which a member of a police force may be dismissed etc.);
- (b) section 65 (meaning of "senior officer" for the purposes of complaints made against members of a police force); and
- (c) section 84(1) and (3) (representation at disciplinary and other proceedings).

(5) In Schedule 6 to the 1996 Act (appeals to police appeal tribunals)—
- (a) in paragraph 10(a), before "superintendent" there shall be inserted " chief "; and
- (b) in paragraph 10(c)(i)—
  - (i) after "of the rank of" there shall be inserted " chief superintendent or "; and
  - (ii) for "that rank" there shall be substituted " one of those ranks ".

(6) The amendments of Schedule 6 to that Act by virtue of this section shall not affect any appeal brought by a member of a police force under section 85 of that Act before the coming into force of this section.

Police pensions etc.

126 Pensions for members of NCIS and NCS

(1) In section 7(2) of the Police Pensions Act 1976 (c. 35) (payment of pensions and contributions into Consolidated Fund or out of moneys provided by Parliament), before paragraph (d) there shall be inserted—
- "(ca) the Director General of the National Criminal Intelligence Service;
- (cb) the Director General of the National Crime Squad;
- (cc) a police member of the National Criminal Intelligence Service appointed under subsection (1)(b) of section 9 of the Police Act 1997 (c. 50) by virtue of subsection (2)(a) of that section;
- (cd) a police member of the National Crime Squad appointed under subsection (1)(b) of section 55 of the Police Act 1997 by virtue of subsection (2)(a) of that section;".

(2) In section 11(1) of that Act (meaning of membership of police force or service in a police force), before paragraph (c) there shall be inserted—
- "(ba) service as the Director General of the National Criminal Intelligence Service;
- (bb) service as the Director General of the National Crime Squad;
- (bc) service as a police member of the National Criminal Intelligence Service appointed under subsection (1)(b) of section 9 of the Police Act 1997 by virtue of subsection (2)(a) of that section;
- (bd) service as a police member of the National Crime Squad appointed under subsection (1)(b) of section 55 of the Police Act 1997 by virtue of subsection (2)(a) of that section;".

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(3) In section 11(2) of that Act (meaning of "police authority"), for paragraphs (c) and (d) (service for which the service Authorities for the NCIS and NCS are treated as police authorities) there shall be substituted—

"(c) in relation to any such service as is mentioned in subsection (ba) or (bc) above or any service of the kind described in section 97(1)(ca) of the Police Act 1996 (c. 16) or section 38A(1)(ba) of the Police (Scotland) Act 1967 (c. 77), it means the Service Authority for the National Criminal Intelligence Service;

(d) in relation to any such service as is mentioned in subsection (bb) or (bd) above or any service of the kind described in section 97(1)(cb) of the Police Act 1996, it means the Service Authority for the National Crime Squad;".

(4) In section 11(3)(b) of that Act (meaning of "police force"), after "(ab)," there shall be inserted " (ba), (bb), (bc), (bd) ".

127 Pensions for ACPO staff

(1) The persons to whom section 1 of the Superannuation Act 1972 (c. 11) ("the 1972 Act") applies (persons to or in respect of whom benefits may be provided by schemes under that Act) shall include persons who at any time after the coming into force of this section are serving in employment with the Association of Chief Police Officers of England, Wales and Northern Ireland; and, accordingly, in Schedule 1 to that Act (kinds of employment to which that Act applies), in the entries under the heading "Other bodies", there shall be inserted, at the appropriate place—

"The Association of Chief Police Officers of England, Wales and Northern Ireland".

(2) Section 1 of the 1972 Act shall also apply to persons who at any time before the coming into force of this section have ceased to serve with the Association of Chief Police Officers of England, Wales and Northern Ireland.

(3) The Association of Chief Police Officers of England, Wales and Northern Ireland shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to this section in the sums payable under the 1972 Act out of money provided by Parliament.

Minor and consequential amendments

128 Amendments relating to NCIS and NCS

(1) Schedule 6 to this Act (which makes minor and consequential amendments relating to this Part) shall have effect.

(2) In relation to any time before the coming into force of section 2(3) of the Police (Northern Ireland) Act 2000 (c. 32), the reference to the Northern Ireland Policing Board in Schedule 2A to the 1997 Act (inserted by Schedule 6 to this Act) shall be construed as a reference to the Police Authority for Northern Ireland.

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Commencement Information

I15 S. 128 partly in force; s. 128 not in force at Royal Assent see s. 138; s. 128 in force for specified purposes at 1.8.2001 by S.I. 2001/2223, **art. 3(h)**

PART 6

MISCELLANEOUS AND SUPPLEMENTAL

Remands and committals

129 Requirement to give reasons for granting or continuing bail

(1) After section 5(2) of the Bail Act 1976 (c. 63) (supplementary provisions about decisions on bail) there shall be inserted—

"(2A) Where a magistrates' court or the Crown Court grants bail in criminal proceedings to a person to whom section 4 of this Act applies after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for granting bail.

(2B) A court which is by virtue of subsection (2A) above required to give reasons for its decision shall include a note of those reasons in the record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of the record of the decision as soon as practicable after the record is made."

(2) After section 5A(1) of that Act (supplementary provisions in cases of police bail) there shall be inserted—

"(1A) Subsections (2A) and (2B) shall be omitted."

(3) After section 5B(8) of that Act (reconsideration of decisions granting bail) there shall be inserted—

"(8A) Where the court, on a reconsideration under this section, refuses to withhold bail from a relevant person after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for refusing to withhold bail.

(8B) In subsection (8A) above, "relevant person" means a person to whom section 4(1) (and Schedule 1) of this Act is applicable in accordance with subsection (4) above.

(8C) A court which is by virtue of subsection (8A) above required to give reasons for its decision shall include a note of those reasons in any record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of any such record as soon as practicable after the record is made."

(4) In Part 1 of Schedule 1 to that Act, paragraph 9A (court to give reasons for granting bail in certain homicide and rape cases) shall be omitted.

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130 Remands and committals to secure accommodation etc

(1) Section 23 of the Children and Young Persons Act 1969 (c. 54) (remands and committals to local authority accommodation) shall be amended in accordance with subsections (2) to (4) below.

(2) In subsection (5) (conditions for the imposition of a security requirement), for paragraph (b) and the words after it there shall be substituted—

"(b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—

(i) amount, or

(ii) would, if he were convicted of the offences with which he is charged, amount,

to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation,

and (in either case) the condition set out in subsection (5AA) below is satisfied."

(3) After that subsection there shall be inserted—

"(5AA) The condition mentioned in subsection (5) above is that the court is of the opinion, after considering all the options for the remand of the person, that only remanding him to local authority accommodation with a security requirement would be adequate—

(a) to protect the public from serious harm from him; or

(b) to prevent the commission by him of imprisonable offences."

(4) In subsection (6)(a) (statement in open court that the court is of the opinion mentioned in subsection (5)), for "(5)" there shall be substituted " (5AA) ".

(5) That section as it has effect pursuant to section 98 of the Crime and Disorder Act 1998 (c. 37) (alternative provision for 15 and 16 year old boys), shall so have effect with the further modifications set out in subsections (6) and (7).

(6) For subsection (5AA) there shall be substituted—

"(5AA) The condition mentioned in subsection (5) above is that the court is of the opinion, after considering all the options for the remand of the person, that only remanding him to a remand centre or prison, or to local authority accommodation with a requirement that he be placed and kept in secure accommodation would be adequate—

(a) to protect the public from serious harm from him; or

(b) to prevent the commission by him of imprisonable offences."

(7) In subsection (6)(a) (statement in open court that the court is of the opinion mentioned in subsection (5)), for "that subsection" there shall be substituted " subsection (5AA) above ".

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Commencement Information

I16 S. 130 wholly in force at 16.9.2002; s. 130 not in force at Royal Assent see s. 138; s. 130 in force for certain purposes at 22.4.2002 and in force at 16.9.2002 insofar as not already in force by S.I. 2002/1097, **art. 2**

131 Monitoring of compliance with bail conditions

(1) In section 3 of the Bail Act 1976 (c. 63) (general provisions), after subsection (6) there shall be inserted—

"(6ZAA) Subject to section 3AA below, if he is a child or young person he may be required to comply with requirements imposed for the purpose of securing the electronic monitoring of his compliance with any other requirement imposed on him as a condition of bail."

(2) After that section there shall be inserted—

"3AA Electronic monitoring of compliance with bail conditions

(1) A court shall not impose on a child or young person a requirement under section 3(6ZAA) above (an "electronic monitoring requirement") unless each of the following conditions is satisfied.

(2) The first condition is that the child or young person has attained the age of twelve years.

(3) The second condition is that—

(a) the child or young person is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or

(b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—

(i) amount, or

(ii) would, if he were convicted of the offences with which he is charged, amount,

to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation.

(4) The third condition is that the court—

(a) has been notified by the Secretary of State that electronic monitoring arrangements are available in each petty sessions area which is a relevant area; and

(b) is satisfied that the necessary provision can be made under those arrangements.

(5) The fourth condition is that a youth offending team has informed the court that in its opinion the imposition of such a requirement will be suitable in the case of the child or young person.

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(6) Where a court imposes an electronic monitoring requirement, the requirement 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.

(7) The Secretary of State may make rules for regulating—

(a) the electronic monitoring of compliance with requirements imposed on a child or young person as a condition of bail; 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 such requirements.

(8) Rules under this section may make different provision for different cases.

(9) Any power of the Secretary of State to make an order or rules under this section shall be exercisable by statutory instrument.

(10) A statutory instrument containing rules made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) In this section "local authority accommodation" has the same meaning as in the Children and Young Persons Act 1969 (c. 54).

(12) For the purposes of this section a petty sessions area is a relevant area in relation to a proposed electronic monitoring requirement if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area."

(3) In subsection (7) of that section (cases where parent or guardian may be required to secure compliance with requirements), after "(6)" there shall be inserted " , (6ZAA) ".

(4) In section 3A(3) of that Act (which modifies section 3 of that Act in its application to bail granted by a custody officer), after "subsections" there shall be inserted " (6ZAA), ".

132 Monitoring of compliance with conditions of non-secure remand

(1) In subsection (7) of section 23 of the Children and Young Persons Act 1969 (c. 54) (conditions that may be imposed by a court remanding a person to non-secure local authority accommodation)—

(a) at the beginning there shall be inserted " Subject to section 23AA below, """ "; and

(b) for the words from "any" to the end there shall be substituted—

"(a) any such conditions as could be imposed under section 3(6) of the Bail Act 1976 (c. 63) if he were then being granted bail; and

(b) any conditions imposed for the purpose of securing the electronic monitoring of his compliance with any other condition imposed under this subsection."

(2) After that section there shall be inserted—

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"23AA Electronic monitoring of conditions of remand

(1) A court shall not impose a condition on a person under section 23(7)(b) above (an "electronic monitoring condition") unless each of the following requirements is fulfilled.

(2) The first requirement is that the person has attained the age of twelve years.

(3) The second requirement is that—

(a) the person is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or

(b) he is charged with or has been convicted of one or more imprisonable offences which, together with any other imprisonable offences of which he has been convicted in any proceedings—

(i) amount, or

(ii) would, if he were convicted of the offences with which he is charged, amount,

to a recent history of repeatedly committing imprisonable offences while remanded on bail or to local authority accommodation.

(4) The third requirement is that the court—

(a) has been notified by the Secretary of State that electronic monitoring arrangements are available in each petty sessions area which is a relevant area; and

(b) is satisfied that the necessary provision can be made under those arrangements.

(5) The fourth requirement is that a youth offending team has informed the court that in its opinion the imposition of such a condition will be suitable in the person's case.

(6) Where a court imposes an electronic monitoring condition, the condition 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.

(7) The Secretary of State may make rules for regulating—

(a) the electronic monitoring of compliance with conditions imposed under section 23(7)(a) above; 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 such conditions.

(8) Subsections (8) to (10) of section 3AA of the Bail Act 1976 (c. 63) (provision about rules and orders under that section) shall apply in relation to this section as they apply in relation to that section.

(9) For the purposes of this section a petty sessions area is a relevant area in relation to a proposed electronic monitoring condition if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area."

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(3) In section 69 of that Act (orders and regulations), after subsection (4) there shall be inserted—

"(4A) Nothing in this section applies to an order under section 23AA."

133 Arrangements for detention in secure training centres

(1) In section 23 of the Children and Young Persons Act 1969 (c. 54) (remands and committals to local authority accommodation), after subsection (7) there shall be inserted—

"(7A) Where a person is remanded to local authority accommodation and a security requirement is imposed in respect of him—

(a) the designated local authority may, with the consent of the Secretary of State, arrange for the person to be detained, for the whole or any part of the period of the remand or committal, in a secure training centre; and

(b) his detention there pursuant to the arrangements shall be lawful.

(7B) Arrangements under subsection (7A) above may include provision for payments to be made by the authority to the Secretary of State."

(2) In section 88(1)(c) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (meaning of "remand in custody"), after "secure accommodation" there shall be inserted " or detained in a secure training centre pursuant to arrangements under subsection (7A) of that section ".

(3) In section 101(11)(c) of that Act (account to be taken of remands in the court's determination of the term of a detention and training order), after "secure accommodation" there shall be inserted " or detained in a secure training centre pursuant to arrangements under subsection (7A) of that section ".

Criminal records

134 Registration for criminal records purposes

(1) After section 120 of the 1997 Act there shall be inserted—

"**120A Refusal and cancellation of registration**

(1) The Secretary of State may refuse to include a person in the register maintained for the purposes of this Part if it appears to him that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information.

(2) The Secretary of State may remove a person from the register if it appears to the Secretary of State—

(a) that the registration of that person is likely to make it possible for information to become available to an individual who, in the Secretary of State's opinion, is not a suitable person to have access to that information; or

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(b) that the registration of that person has resulted in information becoming known to such an individual.

(3) In determining for the purposes of this section whether an individual is a suitable person to have access to any information, the Secretary of State may have regard, in particular, to—

(a) any information relating to that person which concerns a relevant matter;

(b) whether that person is included in any list mentioned in section 113(3A) or (3C); and

(c) any information provided to the Secretary of State under subsection (4).

(4) It shall be the duty of the chief officer of any police force to comply, as soon as practicable after receiving it, with any request by the Secretary of State to provide the Secretary of State with information which—

(a) is available to the chief officer;

(b) relates to—

(i) an applicant for registration;

(ii) a registered person; or

(iii) an individual who is likely to have access to information in consequence of the countersigning of applications by a particular applicant for registration or by a particular registered person;

and

(c) concerns a matter which the Secretary of State has notified to the chief officer to be a matter which, in the opinion of the Secretary of State, is relevant to the determination of the suitability of individuals for having access to the information that may be provided in consequence of the countersigning of applications under this Part.

(5) In this section "relevant matter" has the same meaning as in section 113."

(2) In section 119 of that Act (sources of information)—

(a) in subsections (1) and (4) (supply of information to the Secretary of State for the purposes of applications under Part V), for "for the purposes of an application under this Part" there shall be substituted "for the purpose of enabling him to carry out his functions under this Part in relation to—

(a) any application for a certificate or for registration; or

(b) the determination of whether a person should continue to be a registered person.";

(b) after subsection (1) there shall be inserted—

"(1A) Any person who keeps a list mentioned in section 113(3A) or (3C) above shall make the contents of that list available to the Secretary of State for the purpose of enabling him to carry out his functions under this Part in relation to—

(a) any application for a certificate or for registration; or

(b) the determination of whether a person should continue to be a registered person."

and

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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(c) in subsection (3) (payment for information provided under subsection (2)), for "subsection (2)" there shall be substituted " section 120A(4) or subsection (2) of this section ".

(3) In section 120(2) of that Act (duty to grant registration), after "Subject to" there shall be inserted " section 120A and ".

(4) In section 120(3) of that Act (regulations about registration), after paragraph (a) there shall be inserted—

"(aa) the nomination, in the case of a body corporate or unincorporate, of the individuals authorised to act for the body in relation to the countersigning of applications under this Part;

(ab) the refusal by the Secretary of State, on such grounds as may be specified in or determined under the regulations, to accept or to continue to accept the nomination of a person as so authorised;".

Supplemental

135 Ministerial expenditure etc

There shall be paid out of money provided by Parliament—

(a) any expenditure incurred by the Secretary of State for or in connection with the carrying out of his functions under this Act; and

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

136 General interpretation

In this Act—

"the 1984 Act" means the Police and Criminal Evidence Act 1984 (c. 60);

"the 1996 Act" means the Police Act 1996 (c. 16); and

"the 1997 Act" means the Police Act 1997 (c. 50).

137 Repeals

The enactments and instruments mentioned in Schedule 7 (which include spent provisions) are hereby repealed or (as the case may be) revoked to the extent specified in the third column of that Schedule.

Commencement Information

I17 S. 137 partly in force; s. 137 not in force at Royal Assent, see s. 138(2); s. 137 partly in fo S. 137 partly in force; s. 137 not in force at Royal Assent see s. 138; s. 137 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(1)(f); s. 137 in force for certain purposes at 1.8.2001 by S.I. 2001/2223, art. 3(j); s. 137 in force for certain purposes at 1.12.2001 and 1.1.2002 by S.I. 2001/3736, arts. 2(e), 3(b); s. 137 in force for certain purposes at 1.4.2002 by S.I. 2002/344, **art. 3** (with art. 4); s. 137 in force for certain purposes at 1.4.2002 by S.I. 2002/533, **art. 2**; s. 137 in force for certain purposes at 1.1.2003 by S.I. 2002/3032, **art. 2**; s. 137 in force for certain purposes at 1.4.2003 by S.I. 2003/708, **art. 2(i)** inforce for certain purposes at 1.4.2003 by S.I. 2003/708, **art. 2(i)**

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138 Short title, commencement and extent

(1) This Act may be cited as the Criminal Justice and Police Act 2001.

(2) The provisions of this Act, other than this section and sections 42 and 43, 81 to 85, 109, 116(7) and 119(7), shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes.

(3) An order under subsection (2) may contain such savings as the Secretary of State thinks fit.

(4) Section 85 comes into force at the end of the period of two months beginning with the day on which this Act is passed.

(5) Subject to subsections (6) to (12), this Act extends to England and Wales only.

(6) The following provisions of this Act extend to the United Kingdom—
- (a) sections 33 to 38;
- (b) Part 2;
- (c) section 86(1) and (2);
- (d) Part 5 so far as it relates to the National Criminal Intelligence Service;
- (e) section 127; and
- (f) section 136 and this section.

(7) Except in so far as it contains provision relating to the matters mentioned in section 745(1) of the Companies Act 1985 (c. 6) (companies registered or incorporated in Northern Ireland or outside Great Britain), section 45 extends to Great Britain only.

(8) Section 126 extends to Great Britain only.

(9) Sections 29, 39 to 41, 72, 75, 84 and 134 extend to England and Wales and Northern Ireland only.

(10) Section 83 extends to Northern Ireland only.

(11) Section 86(3) has the same extent as section 27 of the Petty Sessions (Ireland) Act 1851 (c. 93).

(12) An amendment, repeal or revocation contained in Schedule 4, 6 or 7 has the same extent as the enactment or instrument to which it relates.

Subordinate Legislation Made

P1 S. 138(2) power partly exercised: different dates appointed for specified provisions by S.I. 2001/2223, **arts. 2-4**
S. 138(2) power partly exercised: 1.10.2001 appointed for specified provisions by S.I. 2001/3150, **art. 2**
S. 138(2) power partly exercised: different dates appointed for specified provisions by S.I. 2001/3736, **arts. 2**, 3
S. 138(2) power partly exercised: 1.3.2002 and 1.4.2002 appointed for specified provisions by {S.I. 2002/344}, arts. 2, 3 (with art. 4)
S. 138(2) power partly exercised: 1.4.2002 and 2.4.2002 appointed for specified provisions by {S.I. 2002/533}, arts. 2, 3
S. 138(2) power partly exercised: 22.4.2002 and 16.9.2002 appointed for specified provisions by {S.I. 2002/1097}, art. 2

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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S. 138(2) power partly exercised: 12.8.2002 and 1.9.2002 appointed for specified provisions by {S.I. 2002/2050}, arts. 2, 3

S. 138(2) power partly exercised: 1.1.2003 appointed for specified provisions by {S.I. 2002/3032}, art. 2

S. 138(2) power partly exercised: 1.4.2003 appointed for specified provisions by {S.I. 2003/708}, art. 2

S. 138(2) power partly exercised: 1.6.2004 and 8.10.2004 appointed for specified provisions by {S.I. 2004/1376}, arts. 2, 3

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULES

SCHEDULE 1

Sections 50, 51 & 55

POWERS OF SEIZURE

PART 1

POWERS TO WHICH SECTION 50 APPLIES

VALID FROM 01/04/2003

Police and Criminal Evidence Act 1984 (c. 60)

1 Each of the powers of seizure conferred by the provisions of Part 2 or 3 of the 1984 Act (police powers of entry, search and seizure).

VALID FROM 01/04/2003

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12))

2 Each of the powers of seizure conferred by the provisions of Parts 3 and 4 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (police powers of entry, search and seizure).

VALID FROM 01/04/2003

Official Secrets Act 1911 (c. 28)

3 The power of seizure conferred by section 9(1) of the Official Secrets Act 1911 (seizure of evidence that an offence under that Act has been or is about to be committed).

VALID FROM 01/04/2003

Children and Young Persons (Harmful Publications) Act 1955 (c. 28)

4 The power of seizure conferred by section 3(1) of the Children and Young Persons (Harmful Publications) Act 1955 (seizure of copies of work to which that Act applies etc.).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2003

Obscene Publications Act 1959 (c. 66)

5 Each of the powers of seizure conferred by section 3(1) and (2) of the Obscene Publications Act 1959 (power to search for and seize obscene materials and documents relating to a connected business).

VALID FROM 01/04/2003

Betting, Gaming and Lotteries Act 1963 (c. 2)

6 The power of seizure conferred by section 51(1) of the Betting, Gaming and Lotteries Act 1963 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Licensing Act 1964 (c. 26)

7 The power of seizure conferred by section 54 of the Licensing Act 1964 (seizure of documents relating to club).

VALID FROM 01/04/2003

Firearms Act 1968 (c. 27)

8 The power of seizure conferred by section 46 of the Firearms Act 1968 (seizure of firearms etc.).

VALID FROM 01/04/2003

Trade Descriptions Act 1968 (c. 29)

9 Each of the powers of seizure conferred by section 28(1)(c) and (d) of the Trade Descriptions Act 1968 (seizure of evidence of offences under that Act etc.).

VALID FROM 01/04/2003

Theft Act 1968 (c. 60)

10 The power of seizure conferred by section 26(3) of the Theft Act 1968 (seizure of goods suspected of being stolen).

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VALID FROM 01/04/2003

Gaming Act 1968 (c. 65)

11 The power of seizure conferred by section 43(5) of the Gaming Act 1968 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))

12 The power of seizure conferred by section 25(3) of the Theft Act (Northern Ireland) 1969 (seizure of goods suspected of being stolen).

VALID FROM 01/04/2003

Taxes Management Act 1970 (c. 9)

13 The power of seizure conferred by section 20C of the Taxes Management Act 1970 (seizure of evidence of offences involving serious fraud).

VALID FROM 01/04/2003

Misuse of Drugs Act 1971 (c. 38)

14 Each of the powers of seizure conferred by the provisions of section 23(2) and (3) of the Misuse of Drugs Act 1971 (power to search for and seize controlled drugs and related documents).

VALID FROM 01/04/2003

Immigration Act 1971 (c. 77)

15 Each of the powers of seizure conferred by the provisions of sections 28D(3), 28E(5) and 28F(6) of the Immigration Act 1971 (seizure of evidence of offences under that Act).

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VALID FROM 01/04/2003

Fair Trading Act 1973 (c. 41)

16 Each of the powers of seizure conferred by the provisions of section 29(1)(c) and (d) of the Fair Trading Act 1973 (seizure of evidence of offences under section 23 of that Act etc.).

VALID FROM 01/04/2003

Biological Weapons Act 1974 (c. 6)

17 Each of the powers of seizure conferred by the provisions of section 4(1)(b), (c) and (d) of the Biological Weapons Act 1974 (seizures under a warrant).

VALID FROM 01/04/2003

Prices Act 1974 (c. 24)

18 Each of the powers of seizure conferred by the provisions of paragraph 9(2) to the Schedule to the Prices Act 1974 (seizure of evidence of offences in connection with price regulation, price marking and price range notices).

VALID FROM 06/04/2008

[[F20]18A The power of seizure conferred by section 36D(3) of the Consumer Credit Act 1974.**]**

Textual Amendments

F20 Sch. 1 para. 18A inserted (6.4.2008) by Consumer Credit Act 2006 (c. 14), **ss. 51(7)**, 71; S.I. 2007/3300, **art. 3(2)**, Sch. 2

VALID FROM 01/04/2003

Consumer Credit Act 1974 (c. 39)

19 Each of the powers of seizure conferred by the provisions of section 162(1)(c) and (d) of the Consumer Credit Act 1974 (seizure of evidence of offences under that Act etc.).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2003

Lotteries and Amusements Act 1976 (c. 32)

20 The power of seizure conferred by section 19 of the Lotteries and Amusements Act 1976 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Protection of Children Act 1978 (c. 37)

21 The power of seizure conferred by section 4(2) of the Protection of Children Act 1978 (seizure of indecent photographs or pseudo-photographs of children).

VALID FROM 01/04/2003

Protection of Children (Northern Ireland) Order 1978 (S.I. 1978 1047 (N.I. 17))

22 The power of seizure conferred by Article 4(1) of the Protection of Children (Northern Ireland) Order 1978 (seizure of indecent photographs or pseudo-photographs of children).

VALID FROM 01/04/2003

Customs and Excise Management Act 1979 (c. 2)

23 The power of seizure conferred by section 118C(4) of the Customs and Excise Management Act 1979 (seizure of evidence of fraud offences).

VALID FROM 01/04/2003

Estate Agents Act 1979 (c. 38)

24 The power of seizure conferred by section 11(1)(c) of the Estate Agents Act 1979 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Indecent Displays (Control) Act 1981 (c. 42)

25 The power of seizure conferred by section 2(3) of the Indecent Displays (Control) Act 1981 (seizure of indecent matter believed to have been used in the commission of an offence under that Act).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2003

Forgery and Counterfeiting Act 1981 (c. 45)

26 Each of the powers of seizure conferred by the provisions of sections 7(1) and 24(1) of the Forgery and Counterfeiting Act 1981 (seizure of forgeries and counterfeits and of things used for making them etc.).

VALID FROM 01/04/2003

Betting and Gaming Duties Act 1981 (c. 63)

27 The power of seizure conferred by paragraph 16(2) of Schedule 1 to the Betting and Gaming Duties Act 1981 (seizure of evidence of offences in connection with general gaming duty).

VALID FROM 01/04/2003

28 The power of seizure conferred by paragraph 17(2) of Schedule 3 to that Act (seizure of evidence of offences in connection with bingo duty etc.).

VALID FROM 01/04/2003

29 The power of seizure conferred by paragraph 17(2) of Schedule 4 to that Act (seizure of evidence of offences in connection with the provision of amusement machines).

VALID FROM 01/04/2003

Firearms (Northern Ireland) Order 1981 (S.I. 1981 155 (N.I. 2))

30 The power of seizure conferred by Article 45 of the Firearms (Northern Ireland) Order 1981 (seizure of firearms etc.).

VALID FROM 01/04/2003

Weights and Measures (Northern Ireland) Order 1981 (S.I. 1981 231 (N.I. 10))

31 The power of seizure conferred by paragraph 4 of Schedule 9 to the Weights and Measures (Northern Ireland) Order 1981.

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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. . . . . .

[F21]32

Textual Amendments

F21 Sch. 1 paras. 32, 40, 43 repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 364(e)

VALID FROM 01/04/2003

Dogs (Northern Ireland) Order 1983 (S.I. 1983 764 (N.I. 8))

33 The power of seizure conferred by Article 25C(2) of the Dogs (Northern Ireland) Order 1983 (seizure of evidence of offences).

VALID FROM 01/04/2003

Video Recordings Act 1984 (c. 39)

34 The power of seizure conferred by section 17(2) of the Video Recordings Act 1984 (seizure of evidence of offences under that Act).

VALID FROM 08/10/2004

Companies Act 1985 (c. 6)

35 The power of seizure conferred by section 448(3) of the Companies Act 1985 (seizure of documents which have not been produced in compliance with a requirement etc.).

VALID FROM 01/04/2003

Weights and Measures Act 1985 (c. 72)

36 The power of seizure conferred by section 79(2)(b) of the Weights and Measures Act 1985 (seizure of evidence of offences under that Act, except Part 5).

VALID FROM 01/04/2003

37 The power of seizure conferred by paragraph 4 of Schedule 8 to that Act (seizure of evidence of offences under Part 5 of that Act).

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VALID FROM 01/04/2003

Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985 1204 (N.I. 11))

38 The power of seizure conferred by Article 180(4) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (seizure of evidence of offences under that Order).

VALID FROM 01/04/2003

Protection of Military Remains Act 1986 (c. 35)

39 The power of seizure conferred by section 6(3) of the Protection of Military Remains Act 1986 (seizure of evidence of offences under that Act etc.)

. . . . . .

[F22]40

Textual Amendments

F22 Sch. 1 paras. 32, 40, 43 repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 364(e)

VALID FROM 01/04/2003

Greater London Council (General Powers) Act 1986 (c. iv)

41 Any power of seizure conferred by virtue of section 12 of the Greater London Council (General Powers) Act 1986 (seizure of items which may be subject to forfeiture).

VALID FROM 01/06/2004

Companies (Northern Ireland) Order 1986 (S.I. 1986 1032 (N.I. 6))

42 The power of seizure conferred by Article 441(3) of the Companies (Northern Ireland) Order 1986 (seizure of evidence of offences etc.).

. . . . . .

[F23]43

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F23 Sch. 1 paras. 32, 40, 43 repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 364(e)

VALID FROM 01/04/2003

Criminal Justice Act 1987 (c. 38)

44 The power of seizure conferred by section 2(5) of the Criminal Justice Act 1987 (seizure of documents for the purposes of an investigation under section 1 of that Act).

VALID FROM 01/04/2003

Consumer Protection Act 1987 (c. 43)

45 Each of the powers of seizure conferred by the provisions of section 29(4), (5) and (6) of the Consumer Protection Act 1987 (seizure for the purposes of ascertaining whether safety provisions have been contravened etc.).

VALID FROM 01/04/2003

Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987 2049 (N.I. 20))

46 Each of the powers of seizure conferred by the provisions of Article 22(3) and (4) of the Consumer Protection (Northern Ireland) Order 1987 (seizure for purposes of ascertaining whether safety provisions have been contravened).

Criminal Justice Act 1988 (c. 33)

47 F24 . . . . . .

Textual Amendments

F24 Sch. 1 para. 47 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458(1)(3), **Sch. 12**; S.I. 2003/333, **art. 2**, Sch. (subject to arts. 3-13 (as amended by S.I. 2003/531, arts. 3, 4))

Copyright, Designs and Patents Act 1988 (c. 48)

48 The power of seizure conferred by section 109(4) of the Copyright, Designs and Patents Act 1988 (seizure of evidence of making or dealing with articles infringing copyright).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Criminal Justice (International Co-operation) Act 1990 (c. 5)

49 The power of seizure conferred by sections 7(2) and 8(1) of the Criminal Justice (International Co-operation) Act 1990 (seizure of evidence of commission outside the United Kingdom of an arrestable offence or of an offence punishable in Scotland by imprisonment).

VALID FROM 01/04/2003

Food Safety Act 1990 (c. 16)

50 The power of seizure conferred by section 32(6) of the Food Safety Act 1990 (seizure of evidence for the purposes of proceedings under that Act).

VALID FROM 01/04/2003

Computer Misuse Act 1990 (c. 18)

51 The power of seizure conferred by section 14(4) of the Computer Misuse Act 1990 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Human Fertilisation and Embryology Act 1990 (c. 37)

52 The power of seizure conferred by section 40(2) of the Human Fertilisation and Embryology Act 1990 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Property Misdescriptions Act 1991 (c. 29)

53 The power of seizure conferred by paragraph 3(3) of the Schedule to the Property Misdescriptions Act 1991 (seizure of evidence of offences under section 1 of that Act).

VALID FROM 01/04/2003

Dangerous Dogs Act 1991 (c. 65)

54 The power of seizure conferred by section 5(2) of the Dangerous Dogs Act 1991 (seizure of evidence of offences under that Act).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2003

Food Safety (Northern Ireland) Order 1991 (S.I. 1991 762 (N.I. 7))

55 The power of seizure conferred by Article 33(7) of the Food Safety (Northern Ireland) Order 1991 (seizure of evidence of offences under that Order).

VALID FROM 01/04/2003

Timeshare Act 1992 (c. 35)

56 The power of seizure conferred by paragraph 3(2) of Schedule 2 to the Timeshare Act 1992 (seizure of evidence of offences).

VALID FROM 27/02/2007

Charities Act 1993 (c. 10)

[[F25]56A The power of seizure conferred by section 31A(3) of the Charities Act 1993 (seizure of material for the purposes of an inquiry under section 8 of that Act).**]**

Textual Amendments

F25 Sch. 1 para. 56A inserted (27.2.2007) by Charities Act 2006 (c. 50), **ss. 26(2)**, 79; S.I. 2007/309, **art. 2**, Sch. (subject to arts. 4-13)

VALID FROM 01/04/2003

Finance Act 1994 (c. 9)

57 The power of seizure conferred by paragraph 4(3) of Schedule 7 to the Finance Act 1994 (seizure of evidence of offences relating to insurance premium tax).

VALID FROM 01/12/2007

Value Added Tax Act 1994 (c. 23)

58 [F26] . . . . . .

Textual Amendments

F26 Sch. 1 para. 58 repealed (1.12.2007) by Finance Act 2007 (c. 11), ss. 84, 114, Sch. 22 para. 13(2)(e), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, **art. 3(a)**

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2003

Trade Marks Act 1994 (c. 26)

[[F27]58A The power of seizure conferred by section 92A(4) of the Trade Marks Act 1994 (seizure of evidence relating to offences concerning unauthorised use of a trade mark, etc. in relation to goods).**]**

Textual Amendments

F27 Sch. 1 para. 58A inserted (1.4.2003) by The Criminal Justice and Police Act 2001 (Powers of Seizure) Order 2003 (S.I. 2003/934), **art. 2(3)**

VALID FROM 01/04/2003

Drug Trafficking Act 1994 (c. 37)

59 The power of seizure conferred by section 56(5) of the Drug Trafficking Act 1994 (seizure of material likely to be of substantial value to an investigation into drug trafficking).

VALID FROM 01/04/2003

Chemical Weapons Act 1996 (c. 6)

60 Each of the powers of seizure conferred by the provisions of section 29(2)(c), (d) and (e) of the Chemical Weapons Act 1996 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Finance Act 1996 (c. 8)

61 The power of seizure conferred by paragraph 5(2) of Schedule 5 to the Finance Act 1996 (seizure of evidence of offences relating to landfill tax).

VALID FROM 01/04/2003

Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996 1299 (N.I. 9))

62 The power of seizure conferred by Article 51(5) of the Proceeds of Crime (Northern Ireland) Order 1996 (seizure of material relevant to investigation).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2003

Knives Act 1997 (c. 21)

63 The power of seizure conferred by section 5(2) of the Knives Act 1997 (seizure of publications consisting of or containing prohibited material).

VALID FROM 01/04/2003

Nuclear Explosions (Prohibitions and Inspections) Act 1998 (c. 7)

64 Each of the powers of seizure conferred by the provisions of section 10(2)(c), (d) and (e) of the Nuclear Explosions (Prohibitions and Inspections) Act 1998 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Data Protection Act 1998 (c. 29)

65 The power of seizure conferred by paragraph 1 of Schedule 9 to the Data Protection Act 1998 (seizure of evidence of contravention of data protection principles etc.).

VALID FROM 01/04/2003

Landmines Act 1998 (c. 33)

66 Each of the powers of seizure conferred by the provisions of section 18(3)(c), (d) and (e) of the Landmines Act 1998 (seizure of evidence of offences under that Act).

VALID FROM 01/06/2004

Competition Act 1998 (c. 41)

67 Each of the powers of seizure conferred by section 28(2) of the Competition Act 1998 (seizure of documents or information).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2003

Nuclear Safeguards Act 2000 (c. 5)

68 The power of seizure conferred by section 8(2) of the Nuclear Safeguards Act 2000 (seizure of evidence of offences under that Act etc.).

VALID FROM 01/04/2003

Financial Services and Markets Act 2000 (c. 8)

69 The power of seizure conferred by section 176(5) of the Financial Services and Markets Act 2000 (seizure of documents or information not supplied in compliance with a requirement etc.).

VALID FROM 01/04/2003

Terrorism Act 2000 (c. 11)

70 The power of seizure conferred by section 82(3) of the Terrorism Act 2000 (power of constable in Northern Ireland to seize items used or intended for use in the commission of certain offences).

VALID FROM 01/04/2003

71 Each of the powers of seizure conferred by the provisions of paragraphs 1, 3, 11, 15 and 19 of Schedule 5 to that Act (powers for use in terrorism investigations).

VALID FROM 01/04/2003

Finance Act 2000 (c. 17)

72 The power of seizure conferred by paragraph 130(2) of Schedule 6 to the Finance Act 2000 (seizure of evidence of offences relating to climate change levy).

VALID FROM 01/04/2003

Freedom of Information Act 2000 (c. 36)

73 The power of seizure conferred by paragraph 1 of Schedule 3 to the Freedom of Information Act 2000.

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Proceeds of Crime Act 2002 (c. 29)

[F28 73A The power of seizure conferred by section 352(4) of the Proceeds of Crime Act 2002 (seizure of material likely to be of substantial value to certain investigations).]

Textual Amendments

F28 Sch. 1 para. 73A added (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458, **Sch. 11 para. 40(6)**; S.I. 2003/120, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended by S.I. 2003/333, art. 14))

VALID FROM 20/06/2003

Enterprise Act 2002

[F29 73B The power of seizure conferred by section 194(2) of the Enterprise Act 2002 (seizure of documents for the purposes of an investigation under section 192(1) of that Act).]

Textual Amendments

F29 Sch. 1 para. 73B inserted (20.6.2003) after Sch. 1 para. 73 by virtue of Enterprise Act 2002 (c. 40), **ss. 194(5)**, 279; S.I. 2003/1397, **art. 2(1)**, Sch.

VALID FROM 08/01/2007

[F30 73BA The power of seizure conferred by section 227C of the Enterprise Act 2002 (entry to premises with warrant to seize goods or documents etc).]

Textual Amendments

F30 Sch. 1 para. 73BA inserted (8.1.2007) by The Enterprise Act 2002 (Amendment) Regulations 2006 (S.I. 2006/3363), **reg. 28**

VALID FROM 26/04/2004

Crime (International Co-operation) Act 2003

[F31 73C The power of seizure conferred by sections 17 and 22 of the Crime (International Co-operation) Act 2003 (seizure of evidence relevant to overseas investigation or offence).]

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F31 Sch. 1 para. 73C inserted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), **ss. 26(3)(b)**, 94; S.I. 2004/786, **art. 3**

VALID FROM 01/01/2004

Extradition Act 2003 (c. 41)

[F32 73D The powers of seizure conferred by sections 156(5), 160(5), 161(4), 162(6) and (7) and 164(6) and (7) of the Extradition Act 2003 (seizure in connection with extradition).]

Textual Amendments

F32 Sch. 1 para. 73D added (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 165(2)**, 221; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3312, art. 2(2) and S.I. 2003/3258, art. 2(2)))

VALID FROM 01/03/2006

Human Tissue Act 2004 (c. 30)

[F33 73E Each of the powers of seizure conferred by the provisions of paragraph 5(1) (seizure of material relevant to licensing functions) and (2) (seizure of evidence of offences) of Schedule 5 to the Human Tissue Act 2004.]

Textual Amendments

F33 Sch. 1 para. 73E inserted (1.3.2006 for certain purposes, 7.4.2006 for certain further purposes and 1.9.2006 otherwise) by Human Tissue Act 2004 (c. 30), ss. 56, 60, **Sch. 6 para. 5(4)**; S.I. 2006/404, arts. 2, **3**, Sch. (subject to art. 4 and with arts. 5, 6); S.I. 2006/1997, **art. 3** (subject to arts. 4, 7, 8) (as amended (5.8.2006) by S.I. 2006/2169, art. 2)

VALID FROM 01/04/2006

Serious Organised Crime and Police Act 2005

[F34 73F The power of seizure conferred by section 66 of the Serious Organised Crime and Police Act 2005 (seizure of documents for purposes of investigation by DPP or other Investigating Authority).]

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F34 Sch. 1 para. 73F inserted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 68**, 178; S.I. 2005/1521, **art. 5(1)**; S.S.I. 2006/166, **art. 2(1)(a)**

VALID FROM 01/10/2005

General Product Safety Regulations 2005

[F35 73G Each of the powers of seizure conferred by the provisions of regulation 22(4) to (6) of the General Product Safety Regulations 2005 (seizure for the purposes of ascertaining whether safety provisions have been contravened etc).]

Textual Amendments

F35 Sch. 1 para. 73G inserted (1.10.2005) by The General Product Safety Regulations 2005 (S.I. 2005/1803), **reg. 47(4)** (with regs. 42, 43)

VALID FROM 13/04/2006

[F36 73H The power of seizure conferred by section 28 of the Terrorism Act 2006.]

Textual Amendments

F36 Sch. 1 para. 73H inserted (13.4.2006) by Terrorism Act 2006 (c. 11), **ss. 28(6)(a)**, 39(2); S.I. 2006/1013, **art. 2**

VALID FROM 15/12/2007

The Money Laundering Regulations 2007

[F37 73J The power of seizure conferred by regulation 39(6) of the Money Laundering Regulations 2007 (entry to premises under warrant).]

Textual Amendments

F37 Sch. 1 Pt. 1 para. 73J inserted (15.12.2007) by The Money Laundering Regulations 2007 (S.I. 2007/2157), reg. 51, **Sch. 6 Pt. 1 para. 3**

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 15/12/2007

The Transfer of Funds (Information on the Payer) Regulations 2007

[[F38]73K The power of seizure conferred by regulation 9(6) of the Transfer of Funds (Information on the Payer) Regulations 2007 (entry to premises under warrant).**]**

Textual Amendments

F38 Sch. 1 Pt. 1 para. 73K inserted (15.12.2007) by The Transfer of Funds (Information on the Payer) Regulations 2007 (S.I. 2007/3298), reg. 19, **Sch. 3 para. 3**

VALID FROM 01/04/2003

PART 2

POWERS TO WHICH SECTION 51 APPLIES

Police and Criminal Evidence Act 1984 (c. 60)

74 Each of the powers of seizure conferred by the provisions of Part 3 of the 1984 Act (police powers of search and seizure on arrest).

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12))

75 Each of the powers of seizure conferred by the provisions of Part 4 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (police powers of seizure on arrest).

Firearms Act 1968 (c. 27)

76 The power of seizure conferred by section 46 of the Firearms Act 1968 (seizure of firearms etc.).

Misuse of Drugs Act 1971 (c. 38)

77 Each of the powers of seizure conferred by the provisions of section 23(2) and (3) of the Misuse of Drugs Act 1971 (power to search for and seize controlled drugs and related documents).

Immigration Act 1971 (c. 77)

78 The power of seizure conferred by section 28G(7) of the Immigration Act 1971 (seizure of evidence of offences under that Act etc.).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Biological Weapons Act 1974 (c. 6)

79 Each of the powers of seizure conferred by the provisions of section 4(1)(b), (c) and (d) of the Biological Weapons Act 1974 (seizures under a warrant).

Firearms (Northern Ireland) Order 1981 (S.I. 1981 155 (N.I. 2))

80 The power of seizure conferred by Article 45 of the Firearms (Northern Ireland) Order 1981 (seizure of firearms etc.).

Criminal Justice and Public Order Act 1994 (c. 33)

81 The power of seizure conferred by section 139(10) of the Criminal Justice and Public Order Act 1994 (seizure of items found in searching persons arrested under certain cross-border powers).

Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)

[[F39]81A The power of seizure conferred by section 23E(3) (as read with section 23E(5)(c)) of the Criminal Law (Consolidation) (Scotland) Act 1995 (seizure of evidence of Revenue and Customs offences).**]**

Textual Amendments

F39 Sch. 1 Pt. 2 para. 81A inserted (1.12.2007) by Finance Act 2007 (c. 11), ss. 85, **Sch. 23 para. 13(b)**; S.I. 2007/3166, **art. 3(b)**

Terrorism Act 2000 (c. 11)

82 The power of seizure conferred by section 43(4) of the Terrorism Act 2000 (seizure on the occasion of a search of a suspected terrorist).

83 Each of the powers of seizure conferred by the provisions of paragraphs 1, 3, 11, 15 and 19 of Schedule 5 to the Terrorism Act 2000 (powers for use in terrorism investigations).

VALID FROM 01/01/2004

Extradition Act 2003 (c. 41)

[[F40]83A The powers of seizure conferred by section 163(6) and (7) of the Extradition Act 2003 (seizure in connection with extradition).**]**

Textual Amendments

F40 Sch. 1 para. 83A added (1.1.2004) by Extradition Act 2003 (c. 41), **ss. 165(3)**, 221; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by SI 2003/3312, art. 2(2) and SI 2003/3258, art. 2(2)))

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 3

POWERS TO WHICH SECTION 55 APPLIES

VALID FROM 01/04/2003

Police and Criminal Evidence Act 1984 (c. 60)

84 The power of seizure conferred by section 8(2) of the 1984 Act (police power, on exercise of search warrant, to seize property searched for).

VALID FROM 01/04/2003

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12))

85 The power of seizure conferred by Article 10(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (police power, on exercise of search warrant, to seize property searched for).

VALID FROM 01/04/2003

Official Secrets Act 1911 (c. 28)

86 The power of seizure conferred by section 9(1) of the Official Secrets Act 1911 (seizure of evidence that an offence under that Act has been or is about to be committed).

VALID FROM 01/04/2003

Children and Young Persons (Harmful Publications) Act 1955 (c. 28)

87 The power of seizure conferred by section 3(1) of the Children and Young Persons (Harmful Publications) Act 1955 (seizure of copies of work to which that Act applies etc.).

VALID FROM 01/04/2003

Obscene Publications Act 1959 (c. 66)

88 Each of the powers of seizure conferred by section 3(1) and (2) of the Obscene Publications Act 1959 (power to search for and seize obscene materials and documents relating to a connected business).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2003

Betting, Gaming and Lotteries Act 1963 (c. 2)

89 The power seizure conferred by section 51 of the Betting, Gaming and Lotteries Act 1963 (seizure of evidence of offences under that Act).

Licensing Act 1964 (c. 26)

90 The power of seizure conferred by section 54 of the Licensing Act 1964 (seizure of documents relating to club).

VALID FROM 01/04/2003

Firearms Act 1968 (c. 27)

91 The power of seizure conferred by section 46 of the Firearms Act 1968 (seizure of firearms etc.).

VALID FROM 01/04/2003

Theft Act 1968 (c. 60)

92 The power of seizure conferred by section 26(3) of the Theft Act 1968, (power to search for and seize goods suspected of being stolen).

VALID FROM 01/04/2003

Gaming Act 1968 (c. 65)

93 The power of seizure conferred by section 43(5) of the Gaming Act 1968 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))

94 The power of seizure conferred by section 25(3) of the Theft Act (Northern Ireland) 1969 (seizure of goods suspected of being stolen).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/04/2003

Immigration Act 1971 (c. 77)

95 The power of seizure conferred by section 28D(3) of the Immigration Act 1971 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Biological Weapons Act 1974 (c. 6)

96 Each of the powers of seizure conferred by the provisions of section 4(1)(b), (c) and (d) of the Biological Weapons Act 1974 (seizures under a warrant).

VALID FROM 01/04/2003

Lotteries and Amusements Act 1976 (c. 32)

97 The power of seizure conferred by section 19 of the Lotteries and Amusements Act 1976 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Protection of Children Act 1978 (c. 37)

98 The power of seizure conferred by section 4(2) of the Protection of Children Act 1978 (seizure of indecent photographs or pseudo-photographs of children).

VALID FROM 01/04/2003

Protection of Children (Northern Ireland) Order 1978 (S.I. 1978 1047 (N.I. 17))

99 The power of seizure conferred by Article 4(1) of the Protection of Children (Northern Ireland) Order 1978 (seizure of indecent photographs or pseudo-photographs of children).

VALID FROM 01/04/2003

Indecent Displays (Control) Act 1981 (c. 42)

100 The power of seizure conferred by section 2(3) of the Indecent Displays (Control) Act 1981 (seizure of indecent matter believed to have been used in the commission of an offence under that Act).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2003

Forgery and Counterfeiting Act 1981 (c. 45)

101 Each of the powers of seizure conferred by the provisions of sections 7(1) and 24(1) of the Forgery and Counterfeiting Act 1981 (seizure of forgeries and counterfeits and of things used for making them etc.).

VALID FROM 01/04/2003

Firearms (Northern Ireland) Order 1981 (S.I. 1981 155 (N.I. 2))

102 The power of seizure conferred by Article 45 of the Firearms (Northern Ireland) Order 1981 (seizure of firearms etc.).

VALID FROM 01/04/2003

Video Recordings Act 1984 (c. 39)

103 The power of seizure conferred by section 17(2) of the Video Recordings Act 1984 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985 1204 (N.I. 11))

104 The power of seizure conferred by Article 180(4) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (seizure of evidence of offences under that Order).

Criminal Justice Act 1988 (c. 33)

105 [F41] . . . . . .

Textual Amendments

F41 Sch. 1 para. 105 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 40), ss. 457, 458(1)(3), **Sch. 12**; S.I. 2003/333, **art. 2**, Sch. (subject to arts. 3-13 (as amended by S.I. 2003/531, arts. 3, 4))

Copyright, Designs and Patents Act 1988 (c. 48)

106 The power of seizure conferred by section 109(4) of the Copyright, Designs and Patents Act 1988 (seizure of evidence of making or dealing with articles infringing copyright).

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VALID FROM 01/04/2003

Computer Misuse Act 1990 (c. 18)

107 The power of seizure conferred by section 14(4) of the Computer Misuse Act 1990 (seizure of evidence of offences under that Act).

VALID FROM 01/04/2003

Trade Marks Act 1994 (c. 26)

[[F42]107A The power of seizure conferred by section 92A(4) of the Trade Marks Act 1994 (seizure of evidence relating to offences concerning unauthorised use of a trade mark, etc. in relation to goods).**]**

Textual Amendments

F42 Sch. 1 para. 107A inserted (1.4.2003) by The Criminal Justice and Police Act 2001 (Powers of Seizure) Order 2003 (S.I. 2003/934), **art. 3(3)**

VALID FROM 01/04/2003

Drug Trafficking Act 1994 (c. 37)

108 The power of seizure conferred by section 56(5) of the Drug Trafficking Act 1994 (seizure of material likely to be of substantial value to an investigation into drug trafficking).

VALID FROM 01/04/2003

Terrorism Act 2000 (c. 11)

109 (1) Each of the powers of seizure conferred by the provisions of paragraphs 1 and 3 of Schedule 5 to the Terrorism Act 2000 (powers for use in terrorism investigations).

(2) Each of the powers of seizure conferred by paragraphs 15 and 19 of Schedule 5 to that Act, so far only as the power in question is conferred by reference to paragraph 1 of that Schedule.

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Criminal Justice and Police Act 2001 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2003

Proceeds of Crime Act 2002 (c. 29)

[[F43]110 The power of seizure conferred by section 352(4) of the Proceeds of Crime Act 2002 (seizure of material likely to be of substantial value to certain investigations).]

Textual Amendments

F43 Sch. 1 para. 110 added (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456, 458(1)(3), **Sch. 11 para. 40(7)**; S.I. 2003/120, **art. 2**, Sch. (subject to transitional provisions and savings in arts. 3-7 (as amended by S.I. 2003/333, art. 14))

VALID FROM 01/09/2007

Gambling Act 2005

[[F44]112 The powers conferred by section 317 of the Gambling Act 2005 (inspection powers).]

Textual Amendments

F44 Sch. 1 para. 112 added (1.9.2007) by Gambling Act 2005 (c. 19), ss. 356, 358, **Sch. 16 para. 18(1)(d)(2)** (with ss. 352, 354, Sch. 16 para. 21); S.I. 2006/3272, **art. 2(4)** (with transitional provisions in art. 6, Sch. 4)

VALID FROM 13/04/2006

[[F45]113 The power of seizure conferred by section 28 of the Terrorism Act 2006.]

Textual Amendments

F45 Sch. 1 para. 113 inserted (13.4.2006) by Terrorism Act 2006 (c. 11), **ss. 28(6)(b)**, 39(2); S.I. 2006/1013, **art. 2**

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SCHEDULE 2

Section 70

APPLICATIONS AND MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 01/04/2003

PART 1

APPLICATION OF ENACTMENTS

Notice of tests

1 Section 30 of the Trade Descriptions Act 1968 (c. 29) (notice of test) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by section 28(1) of that Act as it applies in relation to items seized in pursuance of that Act.

2 Section 31 of the Fair Trading Act 1973 (c. 41) (notice of test) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by section 29(1) of that Act as it applies in relation to items seized in pursuance of Part 2 of that Act.

3 Section 30(6) and (7) of the Consumer Protection Act 1987 (c. 43) (provision about the testing of seized goods) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by section 29 of that Act as it applies in relation to items seized under section 29 of that Act.

4 Article 23(6) and (7) of the Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987 2049 (N.I. 20)) (provision about the testing of seized goods) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by Article 22 of that Order as it applies in relation to items seized under that Article.

VALID FROM 01/10/2005

[[F46]4A Regulation 23(6) of the General Product Safety Regulations 2005 (provision about the testing of seized products) shall apply in relation to items seized under section 50 of this Act in reliance on the power of seizure conferred by regulation 23 of those Regulations as it applies in relation to items seized under regulation 22 of those Regulations.**]**

Textual Amendments

F46 Sch. 2 para. 4A inserted (1.10.2005) by The General Product Safety Regulations 2005 (S.I. 2005/1803), **reg. 47(5)(a)** (with regs. 42, 43)

Access to seized items

5 Subject to section 61 of this Act, section 11(3) of the Estate Agents Act 1979 (c. 38) (access to items seized under that section) shall apply in relation to items

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seized under section 50 of this Act in reliance on the power of seizure conferred by section 11 of that Act as it applies in relation to items seized under section 11 of that Act.

Compensation for seizure and detention

6 Section 32 of the Fair Trading Act 1973 (c. 41) (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by section 29(1) of that Act, and the retention of those items, as it applies in relation to the seizure and detention of goods under section 29 of that Act.

7 Section 163 of the Consumer Credit Act 1974 (c. 39) (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by section 162(1) of that Act, and the retention of those items, as it applies in relation to the seizure and detention of goods under section 162 of that Act.

8 Section 34 of the Consumer Protection Act 1987 (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by section 29 of that Act, and the retention of those items, as it applies in relation to the seizure and detention of goods under section 29 of that Act.

9 Article 26 of the Consumer Protection (Northern Ireland) Order 1987 (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by Article 22 of that Order, and the retention of those items, as it applies in relation to the seizure and detention of goods under that Article.

VALID FROM 01/10/2005

[[F47]9A Regulation 26 of the General Product Safety Regulations 2005 (compensation for seizure and detention) shall apply in relation to the seizure of items under section 50 of this Act in reliance on the power of seizure conferred by regulation 22 of those Regulations, and the retention of products under regulations 22 of those Regulations.**]**

Textual Amendments

F47 Sch. 2 para. 9A inserted (1.10.2005) by The General Product Safety Regulations 2005 (S.I. 2005/1803), **reg. 47(5)(b)** (with regs. 42, 43)

Forfeiture of seized items

10 (1) The provisions mentioned in sub-paragraph (2) (which are about the forfeiture etc. of items which have been seized) shall apply in relation to an item seized under section 50 as if the item had been seized under the power of seizure in reliance on which it was seized.

(2) Those provisions are—

(a) section 3(3) of the Obscene Publications Act 1959 (c. 66);

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(b) sections 4(3) and 5 of the Protection of Children Act 1978 (c. 37);
(c) Article 5 of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978 1047 (N.I. 17));
(d) sections 7(2) and 24(2) of the Forgery and Counterfeiting Act 1981 (c. 45).

Disclosure of information

11 Any provision which—
(a) restricts the disclosure, or permits the disclosure only for limited purposes or in limited circumstances, of information obtained through the exercise of a power of seizure specified in Part 1 or 2 of Schedule 1, or
(b) confers power to make provision which does either or both of those things,

shall apply in relation to information obtained under section 50 or 51 in reliance on the power in question as it applies in relation to information obtained through the exercise of that power.

Interpretation

12 For the purposes of this Part of this Schedule, an item is seized, or information is obtained, under section 50 or 51 in reliance on a power of seizure if the item is seized, or the information obtained, in exercise of so much of any power conferred by that section as is exercisable by reference to that power of seizure.

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 01/04/2003

13 (1) In each of the provisions mentioned in sub-paragraph (2) (which confer powers to require the production of information contained in a computer in a visible and legible form)—
(a) for "contained in a computer" there shall be substituted " stored in any electronic form "; and
(b) after "in which it is visible and legible" there shall be inserted " or from which it can readily be produced in a visible and legible form ".

(2) Those provisions are—
(a) sections 19(4) and 20(1) of the 1984 Act;
(b) Articles 21(4) and 22(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12));
(c) section 43(5)(aa) of the Gaming Act 1968 (c. 65);
(d) section 20C(3A) of the Taxes Management Act 1970 (c. 9);
(e) section 118D(4) of the Customs and Excise Management Act 1979 (c. 2);
(f) paragraph 11(4) of Schedule 11 to the Value Added Tax Act 1994 (c. 23);

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(g) paragraph 4A(4) of Schedule 7 to the Finance Act 1994 (c. 9);
(h) paragraph 7(4) of Schedule 5 to the Finance Act 1996 (c. 8);
(i) paragraph 131(4) of Schedule 6 to the Finance Act 2000 (c. 17).

VALID FROM 01/04/2003

14 In paragraph 5 of Schedule 1 to each of the 1984 Act and the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)) (power to require the production of information contained in a computer in a visible and legible form)—
(a) for "contained in a computer" there shall be substituted " stored in any electronic form "; and
(b) in paragraph (a), after "in which it is visible and legible" there shall be inserted " or from which it can readily be produced in a visible and legible form ".

VALID FROM 01/04/2003

15 In section 46(3) of the Firearms Act 1968 (c. 27) (power to require the production of information kept by means of a computer in a visible and legible form)—
(a) for "kept by means of a computer" there shall be substituted " stored in any electronic form "; and
(b) after "in which it is visible and legible" there shall be inserted " or from which it can readily be produced in a visible and legible form ".

16 (1) In each of the provisions mentioned in sub-paragraph (2) (which confer power to require the production in legible form of information recorded otherwise than in legible form), after "information in legible form" there shall be inserted " , or in a form from which it can readily be produced in visible and legible form ".

(2) Those provisions are—
F48(a) . . . . . .
F48(b) . . . . . .
F48(c) . . . . . .
F48(d) . . . . . .
(e) section 40(5)(b) of the Human Fertilisation and Embryology Act 1990 (c. 37);
(f) the definition of "documents" in section 417(1) of the Financial Services and Markets Act 2000 (c. 8).

Textual Amendments

F48 Sch. 2 para. 16(a)-(d) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 364(f)

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VALID FROM 01/04/2003

17 In sections 434(6) and 447(9) of the Companies Act 1985 (c. 6) and Articles 427(6) and 440(9) of the Companies (Northern Ireland) Order 1986 (S.I. 1986 1032 (N.I. 6)) (power to require the production in legible form of information recorded otherwise than in legible form), at the end there shall be inserted " , or in a form from which it can readily be produced in visible and legible form ".

VALID FROM 01/04/2003

18 In section 32 of the Food Safety Act 1990 (c. 16) (powers of entry), in subsections (5) and (6)(b), for "kept by means of a computer" there shall be substituted " stored in any electronic form ".

VALID FROM 01/04/2003

19 In Article 33 of the Food Safety (Northern Ireland) Order 1991 (S.I. 1991 762 (N.I. 7)) (powers of entry), in paragraphs (6) and (7)(b), for "kept by means of a computer" there shall be substituted " stored in any electronic form ".

VALID FROM 01/04/2003

20 In paragraph 3(1)(b) of the Schedule to the Property Misdescriptions Act 1991 (c. 29) and paragraph 3(1)(b) of Schedule 2 to the Timeshare Act 1992 (c. 35) (powers to require the production of information contained in a computer in a visible and legible documentary form)—

(a) after "form" there shall be inserted " or from which it can readily be produced in a visible and legible form "; and

(b) for "contained in a computer" there shall be substituted " stored in any electronic form ".

VALID FROM 01/04/2003

21 In sections 27(5)(e) and 28(2)(f) of the Competition Act 1998 (c. 41) (power to require the production of information held in a computer in a visible and legible form)—

(a) for "held in a computer" there shall be substituted " stored in any electronic form "; and

(b) after "in which it is visible and legible" there shall be inserted " or from which it can readily be produced in a visible and legible form ".

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VALID FROM 01/04/2003

22 In section 8(2)(c) of the Nuclear Safeguards Act 2000 (c. 5) (power to require the production of information which is held in electronic form in a form in which it can be read and copied), after "copy it" there shall be inserted " , or from which it can readily be produced in a form in which he can read and copy it ".

VALID FROM 01/04/2003

23 In section 2 of the Criminal Justice Act 1987 (c. 38) (investigation powers of the Director of the Serious Fraud Office), after subsection (8C) there shall be inserted—

"(8D) The references in subsections (8A) to (8C) above to evidence obtained by the Director include references to evidence obtained by him by virtue of the exercise by a constable, in the course of a search authorised by a warrant issued under subsection (4) above, of powers conferred by section 50 of the Criminal Justice and Police Act 2001."

VALID FROM 01/04/2003

24 In section 7 of the Criminal Justice (International Co-operation) Act 1990 (c. 5) (search etc. for material relevant to overseas investigation), after subsection (8) there shall be inserted—

"(8A) Subject to subsection (8B) below, the reference in subsection (4) above to evidence seized by a constable by virtue of this section shall be taken to include a reference to evidence seized by a constable by virtue of the exercise, in the course of a search authorised by a warrant issued by virtue of this section, of powers conferred by section 50 of the Criminal Justice and Police Act 2001.

(8B) Nothing in subsection (8A) above requires any evidence to be furnished to the Secretary of State—

(a) before it has been found, on the completion of any examination required to be made by arrangements under subsection (2) of section 53 of the Criminal Justice and Police Act 2001, to be property which falls within subsection (3) of that section (property which may be retained after examination); or

(b) at a time when it constitutes property in respect of which a person is required to ensure that arrangements such as are mentioned in section 61(1) of that Act (duty to secure) are in force."

VALID FROM 01/04/2003

25 In section 8 of the Criminal Justice (International Co-operation) Act 1990 (which makes similar provision for Scotland) after subsection (6) there shall be added—

"(7) Subject to subsection (8) below, the reference in subsection (2) above to evidence seized by a constable by virtue of this section shall be taken

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to include a reference to evidence seized by a constable by virtue of the exercise, in the course of a search authorised by a warrant issued by virtue of this section, of powers conferred by section 50 of the Criminal Justice and Police Act 2001.

(8) Nothing in subsection (7) above requires any evidence to be furnished to the Lord Advocate—

(a) before it has been found, on the completion of any examination required to be made by arrangements under subsection (2) of section 53 of the Criminal Justice and Police Act 2001, to be property which falls within subsection (3) of that section (property which may be retained after examination); or

(b) at a time when it constitutes property in respect of which a person is required to ensure that arrangements such as are mentioned in section 61(1) of that Act (duty to secure) are in force."

26 Section 426 of the Financial Services and Markets Act 2000 (c. 8) (consequential and supplementary provision) shall have effect as if the provisions referred to in subsection (2)(b) of that section included the provisions of this Part of this Act.

VALID FROM 01/04/2003

27 In paragraph 29(1)(a) of Schedule 5 to the Terrorism Act 2000 (c. 11) (conditions for grant of warrant), for "28" there shall be substituted " 22 ".

SCHEDULE 3

Section 87

THE CENTRAL POLICE TRAINING AND DEVELOPMENT AUTHORITY

Constitution of the Authority

1 (1) The Central Police Training and Development Authority shall consist of the members appointed by the Secretary of State; and the Secretary of State shall appoint one of the members to be the chairman of the Authority.

(2) Before appointing the chairman the Secretary of State shall consult—

(a) persons whom he considers to represent the interests of police authorities for areas in England and Wales; and

(b) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales.

(3) The members, apart from the chairman, shall at all times include—

(a) at least two members whom the Secretary of State considers to be capable of representing the interests of police authorities for areas in England and Wales;

(b) at least two members whom the Secretary of State considers to be capable of representing the interests of chief officers of police of police forces in England and Wales; and

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(c) at least one Crown Servant.

(4) The total number of the members of the Authority shall not at any time be less than eleven.

Disqualification

2 A person shall be disqualified for being appointed as a member of the Authority if he has not attained the age of twenty-one years.

3 (1) Subject to sub-paragraphs (2) and (3), a person shall be disqualified for being appointed as a member of the Authority, or for continuing to be such a member if—

(a) a bankruptcy order has been made against him or his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors;

(b) he is subject to a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or Part 2 of the Companies (Northern Ireland) Order 1989 (S.I. 1989 2404 (N.I. 18)), or to an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order); or

(c) within the period of five years before, or at any time on or after, the date of his appointment he has been convicted in any part of the British Islands of an offence in respect of which he was sentenced to imprisonment for a period of three months or more.

(2) Where a person is disqualified under sub-paragraph (1)(a) by reason that a bankruptcy order has been made against him or his estate has been sequestrated, the disqualification shall cease to have effect—

(a) in the case of the bankruptcy order being annulled or the sequestration of his estate being recalled or reduced, on the date of that event; and

(b) in any other case, on his obtaining a discharge.

(3) Where a person is disqualified under sub-paragraph (1)(a) by reason of his having made a composition or arrangement with, or granted a trust deed for, his creditors, the disqualification shall cease to have effect—

(a) in the case of his paying his debts in full, on the date on which the payment is completed; and

(b) in any other case, at the end of the period of five years beginning with the date on which the terms of the deed of composition or arrangement or trust deed are fulfilled.

(4) For the purposes of sub-paragraph (1)(c)—

(a) the date of a conviction shall be taken to be the ordinary date on which the period allowed for making an appeal or application expires or, if an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its non-prosecution;

(b) a sentence of imprisonment for any term the whole or any part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.

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Tenure of office

4 Subject to paragraphs 3(1) and 5 to 7 a person shall hold and vacate office as a member of the Authority in accordance with the terms of his appointment.

5 A person shall be appointed to hold office as a member of the Authority for—
(a) a term of five years; or
(b) such shorter term as the Secretary of State may determine in any particular case.

6 A person may at any time resign his office as chairman or as a member of the Authority by notice in writing to the Secretary of State.

7 The Secretary of State may remove a person from office as the chairman or as a member the Authority if he is satisfied that—
(a) that person has been absent from meetings of the Authority for a period exceeding four consecutive months without the consent of the Authority;
(b) that person has been convicted of a criminal offence (but is not disqualified for continuing to be a member under paragraph 3);
(c) that person is unable or unfit to carry out his functions as a member; or
(d) that person has failed to comply with the terms of his appointment.

Eligibility for re-appointment

8 A person who ceases to be a member, or to be the chairman, of the Authority otherwise than by virtue of paragraph 7 may (if otherwise eligible) be re-appointed.

Remuneration, pensions etc. of members

9 (1) The Authority shall pay to its members such remuneration and allowances as the Secretary of State may determine.

(2) The Authority shall, as regards any of its members or former members in whose case the Secretary of State may so determine, pay or make payments in respect of such pension or gratuity as the Secretary of State may determine.

(3) If—
(a) a person ceases to be a member or ceases to be the chairman of the Authority, and
(b) it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation,

the Secretary of State may direct the Authority to make a payment of such amount as he may determine.

Members of staff of the Authority

10 (1) The Authority shall have—
(a) a chief executive, with responsibility to the Authority for the carrying out of the Authority's functions and the management of their staff; and

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(b) subject to the approval of the Secretary of State as to numbers and terms and conditions of service, such other staff as the Authority may appoint.

(2) The chief executive shall be appointed by the Authority, but no appointment of a chief executive may be made except with the consent of the Secretary of State.

(3) References in this Schedule to the staff of the Authority include references to their chief executive.

Staff remuneration and pensions

11 (1) The Authority—

(a) shall pay to members of their staff such remuneration and allowances, and

(b) may make such payments in respect of remuneration and allowances paid by others to persons engaged with the Authority as members of their staff on periods of temporary service,

as the Authority may, with the consent of the Secretary of State, determine.

(2) The Authority shall—

(a) pay, or make payments in respect of, such pensions or gratuities to or in respect of any persons who are, or have been, members of their staff as the Authority may, with the consent of the Secretary of State, determine; and

(b) establish and maintain such schemes (whether contributory or not) as they may determine, with the consent of the Secretary of State, for the payment of pensions or gratuities to or in respect of any such persons.

(3) References in this paragraph to pensions and gratuities include references to pensions or gratuities by way of compensation to or in respect of members of the staff of the Authority who suffer loss of employment or loss or diminution of emoluments.

(4) If any person—

(a) after ceasing to be employed by the Authority becomes or continues to be one of the Authority's members, and

(b) was, by reference to his employment, a participant in a pension scheme maintained by the Authority,

the Authority may, with the consent of the Secretary of State, make provision for that person to continue to participate in that scheme, on such terms and conditions as they may with the consent of the Secretary of State determine, as if his service as a member of the Authority were service as a member of their staff.

(5) Any provision made by virtue of sub-paragraph (4) is without prejudice to paragraph 9.

12 (1) Employment as a member of staff of the Authority shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 (c. 11) can apply.

(2) Where a person is, by reference to employment as a member of the Authority's staff, a participant in a scheme under section 1 of that Act and becomes a member of the Authority, the Minister for the Civil Service may determine that his service as a member of the Authority shall be treated for the purposes of the scheme as service

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as a member of staff (whether or not any benefits are payable to or in respect of him by virtue of paragraph 9).

Status of staff members as constables

13 (1) A person holding the office of constable immediately before his appointment as the chief executive of the Authority—

(a) continues to hold that office while he is the chief executive; and

(b) as the chief executive, shall hold that office with the rank of chief constable.

(2) A person holding the office of constable immediately before his appointment as a member of staff of the Authority (other than the chief executive) continues to hold that office while he is a member of that staff.

Liability for acts of police members of staff

14 (1) The Authority shall be liable in respect of **[**[F49]any unlawful conduct of**]** seconded constables in the carrying out, or purported carrying out, of their functions as members of the staff of the Authority in like manner as an employer is liable in respect of **[**[F49]any unlawful conduct of**]** his employees in the course of their employment; and accordingly the Authority shall **[**[F50], in the case of a tort,**]** be treated for all purposes as a joint tortfeasor.

(2) In this paragraph "seconded constables" means constables serving as members of the staff of the Authority without being employees of the Authority.

Textual Amendments

F49 Words in Sch. 3 para. 14(1) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 102(1)(a)(2)**; S.I. 2002/2306, **art. 2**

F50 Words in Sch. 3 para. 14(1) substituted (1.10.2002) by Police Reform Act 2002 (c. 30), **s. 102(1)(b)(2)**; S.I. 2002/2306, **art. 2**

Modifications etc. (not altering text)

C9 Sch. 3 para. 14(1) excluded (prosp.) by Health and Safety at Work etc. Act 1974 (c. 37), s. 51A(2B) (as inserted (prosp.) by Police Reform Act 2002 (c. 30), **ss. 95(4)**, 108)

Committees

15 (1) The Authority may establish committees.

(2) Any committee established under sub-paragraph (1) may establish one or more sub-committees.

(3) A person who is not a member of the Authority may be appointed to a committee or sub-committee of the Authority.

(4) The Authority may pay to members of their committees or sub-committees who are neither members nor members of staff of the Authority such remuneration and allowances as the Secretary of State may determine.

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Delegation to committees

16 (1) The Authority may, to such extent as they may determine, delegate any of their functions to any committee of the Authority.

(2) Any such committee may, to such extent as it may determine, delegate any function conferred on it to any of its sub-committees.

Proceedings

17 (1) Subject to the following provisions of this paragraph, the Authority may regulate—
(a) their own procedure (including quorum); and
(b) the procedure (including quorum) of their committees and sub-committees.

(2) The Authority shall make provision for a quorum for meetings of their committees or sub-committees to include at least one member or member of staff of the Authority.

18 The acts and proceedings of any person appointed to be a member, or to be chairman, of the Authority and acting in that office shall, notwithstanding his disqualification or want of qualification, be as valid and effectual as if he had been qualified.

19 The proceedings of the Authority shall not be invalidated by a vacancy in the membership of the Authority or in the office of chairman or by any defect in the appointment of a person as a member or as chairman.

Application of seal and evidence

20 The application of the seal of the Authority shall be authenticated by the signature—
(a) of any member of the Authority; or
(b) of any other person who has been authorised by the Authority (whether generally or specially) for that purpose.

21 A document purporting to be—
(a) duly executed by the Authority under their seal, or
(b) signed on their behalf,
shall be received in evidence and shall, unless the contrary is proved, be taken to be so executed or signed.

Status

22 The Authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the property of the Authority shall not be regarded as property of, or property held on behalf of, the Crown.

Money

23 The Secretary of State may make payments to the Authority out of money provided by Parliament.

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24 (1) The Authority may impose such charges as they consider appropriate in connection with the carrying out of any of their functions.

(2) The Authority shall pay to the Secretary of State all sums received by them (otherwise than under paragraph 23) in the course of, or in connection with, the carrying out of their functions.

(3) Sub-paragraph (2) shall not apply where the Secretary of State so directs.

(4) Any sums received by the Secretary of State under sub-paragraph (2) shall be paid into the Consolidated Fund.

25 (1) Subject to sub-paragraph (3), the Authority may, in the course of or in connection with the carrying out of any of their functions, accept gifts or loans of money or other property, on such terms (if any) as appear to the Authority to be appropriate.

(2) The terms on which gifts or loans are accepted under sub-paragraph (1) may include terms providing for the commercial sponsorship of any activity of the Authority.

(3) The Authority shall not borrow money except with the consent of the Secretary of State.

26 (1) The Authority shall—

(a) keep proper accounts and proper records in relation to the accounts; and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall be in such form, and shall contain such information, as the Secretary of State may direct.

(3) The Authority shall, within such period after the end of each financial year as the Secretary of State may direct, send copies of the statement of accounts relating to that year to the Secretary of State and to the Comptroller and Auditor General.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts sent to him by the Authority under this paragraph; and

(b) lay copies of each such statement and of his report on it before each House of Parliament.

SCHEDULE 4

Section 102

CONSEQUENTIAL AMENDMENTS RELATING TO POLICE TRAINING

The Public Records Act 1958 (c. 51)

1 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3 there shall be inserted, at the appropriate place—

"Central Police Training and Development Authority".

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The Parliamentary Commissioner Act 1967 (c. 13)

2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation), there shall be inserted, at the appropriate place—

"Central Police Training and Development Authority".

The Superannuation Act 1972 (c. 11)

3 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which that Act applies), in the entries under the heading "Other bodies", there shall be inserted, at the appropriate place—

"The Central Police Training and Development Authority".

The House of Commons Disqualification Act 1975 (c. 24)

4 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted, at the appropriate place—

"The Central Police Training and Development Authority".

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

5 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted, at the appropriate place—

"The Central Police Training and Development Authority"

Amendments of Police Pensions Act 1976 (c. 35)

6 (1) The Police Pensions Act 1976 (as amended by section 126 of this Act) shall be amended as follows.

(2) In section 7(2) (payment of pensions and contributions into Consolidated Fund or out of moneys provided by Parliament), after paragraph (cd) there shall be inserted—

"(ce) a member of the staff of the Central Police Training and Development Authority who holds the rank of constable but is not engaged on service of the kind described in section 97(1)(cd) of the Police Act 1996 (c. 16) (temporary service);".

(3) In section 11(1) (meaning of membership of police force or service in a police force), after paragraph (bd) there shall be inserted—

"(be) service, by a person holding the rank of constable, as a member of the staff of the Central Police Training and Development Authority, other than service of the kind described in section 97(1)(cd) of the Police Act 1996 (temporary service);".

(4) In section 11(2) (meaning of "police authority"), after paragraph (d) there shall be inserted—

"(da) in relation to any such service as is mentioned in subsection (be) above or any service of the kind described in section 97(1)(cd) of the Police Act 1996, it means the Central Police Training and Development Authority;".

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(5) In section 11(3)(b) (meaning of "police force"), after "(bd)," there shall be inserted " (be), ".

The Police Act 1996 (c. 16)

7 (1) In section 54(2) of the 1996 Act (functions of inspectors of constabulary), after "Squad" there shall be inserted " and the Central Police Training and Development Authority ".

(2) In section 55 of that Act (publication of reports), after subsection (7) there shall be inserted—

"(8) Subsections (3) to (6) above apply in relation to a report relating to the Central Police Training and Development Authority as if—

(a) the reference to the police authority maintaining the police force to which the report relates were a reference to the Central Police Training and Development Authority; and

(b) subsections (3)(b), (4) and (5)(b) and (c) were omitted."

(3) In section 97 of that Act (police officers engaged on service outside their forces)—

(a) in subsection (1), after paragraph (cc) there shall be inserted—

"(cd) temporary service with the Central Police Training and Development Authority on which a person is engaged with the consent of the appropriate authority;";

and

(b) in each of subsections (6)(a) and (8), after "(cc)," there shall be inserted " (cd), ".

The Freedom of Information Act 2000 (c. 36)

8 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities) there shall be inserted, at the appropriate place—

"The Central Police Training and Development Authority."

VALID FROM 01/04/2003

SCHEDULE 5

Section 108

THE SERVICE AUTHORITIES FOR NCIS AND NCS

. . . . . .

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SCHEDULE 6

Section 128

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO NCIS AND NCS

PART I

THE 1997 ACT

1 The 1997 Act shall be amended in accordance with this Part.

2 In section 1 (the NCIS Service Authority)—

(a) in subsection (4) (persons to be consulted before order made expanding the Authority)—

(i) the word "and" at the end of paragraph (d) shall be omitted; and

(ii) after that paragraph there shall be inserted—

"(da) the Director-General of the Security Service; and";

and

(b) in subsection (7), for "Schedule 2" there shall be substituted " Schedules 2 and 2A ".

3 In section 2 (general functions of the NCIS Service Authority and NCIS), in subsection (6), the words "or under Schedule 3" shall be omitted.

4 In section 3 (objectives determined by NCIS Service Authority), in subsection (4) (persons to be consulted before objectives determined)—

(a) the word "and" at the end of paragraph (c) shall be omitted; and

(b) at the end of paragraph (d) there shall be inserted "; and

(e) the Director-General of the Security Service."

5 In section 4 (service plans), in subsection (5) (persons to be sent copy of plan)—

(a) the word "and" at the end of paragraph (f) shall be omitted; and

(b) after that paragraph there shall be inserted—

"(fa) the Director-General of the Security Service; and".

6 In section 5 (annual reports), in subsection (3) (persons to be sent copy of report)—

(a) the word "and" at the end of paragraph (f) shall be omitted; and

(b) after that paragraph there shall be inserted—

"(fa) the Director-General of the Security Service; and".

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7 In section 6 (appointment of Director General of NCIS), in subsection (4)(b), the words "local authority" and "(as defined in paragraph 14 of that Schedule)" shall be omitted.

8 In section 9 (members of NCIS), in subsection (8) (delegation of powers of appointment to Director General), for the words from "Where" to "that order" there shall be substituted " The NCIS Service Authority shall exercise its powers under Schedule 2A ".

9 In section 26 (setting of objectives by Secretary of State), in subsection (2) (persons to be consulted before objectives are set)—

(a) the word "and" at the end of paragraph (g) shall be omitted; and

(b) after that paragraph there shall be inserted—

"(ga) the Director-General of the Security Service; and".

10 In section 41 (arrangements for consultation)—

(a) in subsection (1) (persons to be consulted by NCIS Service Authority)—

(i) the word "and" at the end of paragraph (c) shall be omitted; and

(ii) after that paragraph there shall be inserted—

"(ca) the Director-General of the Security Service; and";

and

(b) in subsection (2) (persons to be consulted by Director General of NCIS)—

(i) the word "and" at the end of paragraph (e) shall be omitted; and

(ii) after that paragraph there shall be inserted—

"(ea) the Director-General of the Security Service; and".

11 In section 47 (the NCS Service Authority)—

(a) in subsection (4) (persons to be consulted before order made expanding the Authority)—

(i) the word "and" at the end of paragraph (b) shall be omitted; and

(ii) at the end of paragraph (c) there shall be inserted ", and

(d) the Commissioners of Customs and Excise.";

and

(b) in subsection (7), for "Schedule 2" there shall be substituted " Schedules 2 and 2A ".

12 In section 48 (general functions of NCS Service Authority and the National Crime Squad), in subsection (7), the words "or under Schedule 5" shall be omitted.

13 In section 49 (objectives determined by the NCS Service Authority), in subsection (4) (persons to be consulted before objectives determined)—

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(a) the word "and" at the end of paragraph (b) shall be omitted; and
(b) after that paragraph there shall be inserted—
"(ba) the Commissioners of Customs and Excise; and"

14 In section 50 (service plans), in subsection (5) (persons to be sent copy of plan)—
(a) the word "and" at the end of paragraph (d) shall be omitted; and
(b) at the end of paragraph (e) there shall be inserted "; and
(f) the Commissioners of Customs and Excise."

15 In section 51 (annual reports), in subsection (3) (persons to be sent copy of report)—
(a) the word "and" at the end of paragraph (d) shall be omitted; and
(b) at the end of paragraph (e) there shall be inserted "; and
(f) the Commissioners of Customs and Excise."

16 In section 52 (appointment of Director General of National Crime Squad), in subsection (4)(b), the words "local authority" and "(as defined in paragraph 14 of that Schedule)" shall be omitted.

17 In section 55 (members of National Crime Squad), in subsection (8) (delegation of powers of appointment to Director General), for "section 101 (and section 107) of the Local Government Act 1972" there shall be substituted " Schedule 2A ".

18 In section 71 (setting of objectives by Secretary of State), in subsection (2) (persons to be consulted before objectives are set)—
(a) the word "and" at the end of paragraph (e) shall be omitted; and
(b) at the end of paragraph (f) there shall be inserted "; and
(g) the Commissioners of Customs and Excise."

19 In section 85 (arrangements for consultation)—
(a) in subsection (1) (persons to be consulted by NCS Service Authority)—
(i) the word "and" at the end of paragraph (b) shall be omitted; and
(ii) after that paragraph there shall be inserted—
"(ba) the Commissioners of Customs and Excise; and";

and
(b) in subsection (2) (persons to be consulted by Director General of NCS)—
(i) the word "and" at the end of paragraph (b) shall be omitted; and
(ii) after that paragraph there shall be inserted—
"(ba) the Commissioners of Customs and Excise; and".

20 (1) In Schedule 2 (other provisions about members of Service Authorities), in paragraph 3(1) (disqualification by reason of employment with Service Authority etc.), for paragraph (a) there shall be substituted—

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"(a) he is—

(i) a member of NCIS or of the National Crime Squad, or

(ii) an employee or officer of the Authority (who is not such a member);".

(2) In paragraph 6 of that Schedule (resignation), in sub-paragraph (2)—

(a) in paragraph (b), for "7(g)" there shall be substituted " 6A "; and

(b) in paragraph (c), for "7(f) or 8(1)(h)" there shall be substituted " 7(a) or 8(1)(ha) ".

(3) In paragraph 7 of that Schedule (circumstances in which persons automatically cease to be members)—

(a) in sub-paragraph (1), for "7(c), (d) or (e), 8(1)(e), (f) or (g), 9(b)" there shall be substituted " 7(a) or (b), 8(1)(e), (f) or (g), 9(1)(b) ";

(b) in sub-paragraph (3), for "7(f) or 8(1)(h)" there shall be substituted " 7(a) or (b) or 8(1)(h) or (ha) ";

(c) in sub-paragraph (4)—

(i) after "7(a) or (b)", there shall be inserted " (by virtue of being a person within paragraph 7A(1)(a) or 7B(1)(a)) "; and

(ii) for "9(a)" there shall be substituted " 9(1)(a) ";

(d) in sub-paragraph (5), for "the NCIS Service Authority under paragraph 7(g)" there shall be substituted " a Service Authority under paragraph 6A "; and

(e) after sub-paragraph (5), there shall be inserted—

"(6) A person appointed to be a member of the NCIS Service Authority under paragraph 7(c) shall cease to be a member if he ceases to be a member of the Security Service."

(4) In paragraph 8 of that Schedule (removal of members), after sub-paragraph (5) there shall be inserted—

"(6) For the purposes of this paragraph, in relation to a member appointed under paragraph 7(a) or (b) of Schedule 1 the references to the person or persons who are (or would be) required to appoint his successor are to be read as references to the Secretary of State."

(5) Paragraph 9 of that Schedule (removal of members to maintain political balance of local authority members) shall be omitted.

(6) In paragraph 10 of that Schedule (effect of removing a core member), the words "or 9" shall be omitted.

(7) In paragraph 13 of that Schedule (eligibility of senior police officers to vote)—

(a) after "7(a) or (b)", there shall be inserted " (by virtue of being a person within paragraph 7A(1)(a) or 7B(1)(a)) ";

(b) for "9(a)" there shall be substituted " 9(1)(a) "; and

(c) in paragraph (b), for "section 7 or, as the case may be, 53 to require the Director General, or any other member," there shall be substituted " section 9A or, as the case may be, 55A to require a member of NCIS or the National Crime Squad ".

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(8) In paragraph 14 of that Schedule (crown servants not eligible to vote), for "7(f) or 8(1)(h)", there shall be substituted " 7(a) or (b) (by virtue of being a person within paragraph 7A(1)(c) or 7B(1)(c)), 7(c) or 8(1)(h) or (ha) ".

(9) In paragraph 18 of that Schedule (co-opted members), for sub-paragraph (3) there shall be substituted—

"(3) A member of the Security Service shall be disqualified for being co-opted as a member of the NCS Service Authority; and a person shall cease to be a co-opted member of that Authority if he becomes a member of the Security Service."

21 After Schedule 2, there shall be inserted the following Schedule—

"SCHEDULE
2A

FURTHER PROVISIONS ABOUT SERVICE AUTHORITIES

Powers

1 (1) For the purpose of exercising its functions a Service Authority may, subject to the provisions of this Act—
(a) enter into contracts and other agreements (whether legally binding or not);
(b) acquire and dispose of property (including land);
(c) borrow money; and
(d) do such other things as the Authority thinks necessary or expedient.

(2) But the Authority may exercise a power conferred by sub-paragraph (1)(b) or (c) only with the consent of the Secretary of State.

(3) Such consent may be given—
(a) with respect to a particular case or with respect to a class of cases;
(b) subject to such conditions as the Secretary of State considers appropriate.

Committees

2 (1) A person who is not a member of a Service Authority shall not be appointed to a committee or sub-committee of the Authority unless the Secretary of State has consented to the appointment.

(2) Remuneration and allowances paid to members of committees and sub-committees of a Service Authority who are not members of the Authority shall be of such amounts as the Secretary of State may determine.

Proceedings

3 Subject to the provisions of this Schedule, each Service Authority shall regulate its own procedure.

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4 (1) Each Service Authority shall make provision for a quorum for its meetings to include at least one member appointed under each of paragraphs 2, 3 and 4 of Schedule 1.

(2) Each Service Authority shall make provision for a quorum for meetings of any committee or sub-committee to include at least one member or employee of the Service Authority.

Arrangements for discharge of functions by Service Authorities

5 (1) Each Service Authority may arrange for the discharge of any of its functions by a committee, a sub-committee or an officer of the Authority.

(2) Where by virtue of this paragraph any functions of an Authority may be discharged by a committee of the Authority, then, unless the Authority otherwise directs, the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the Authority.

(3) Where by virtue of this paragraph any functions of an Authority may be discharged by a sub-committee of the Authority, then, unless the Authority or the committee otherwise directs, the sub-committee may arrange for the discharge of any of those functions by an officer of the Authority.

(4) Any arrangements made by an Authority, a committee or sub-committee under this paragraph shall not prevent it from exercising the functions concerned.

6 (1) A Service Authority may discharge any of its functions jointly with—

(a) the other Service Authority;

(b) one or more police authorities; or

(c) the other Service Authority and one or more police authorities.

(2) Where such arrangements ("joint arrangements") are in force, the parties to the arrangements may also provide for the discharge of those functions by a joint committee of theirs or by an officer of one of them.

(3) Where, under sub-paragraph (2), joint arrangements provide that functions may be discharged by a joint committee, then, unless the parties to the arrangements otherwise direct, that committee may arrange for the discharge of any of those functions by a sub-committee of the joint committee or an officer of one of the parties to the arrangements.

(4) Where joint arrangements are in force, any enactment relating to the functions to which the arrangements relate or to the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in respect of its application in relation to those functions and the authorities by whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.

(5) For the purposes of sub-paragraph (1) "police authorities" means—

(a) police authorities for areas in England and Wales;

(b) police authorities for areas in Scotland; and

(c) the Northern Ireland Policing Board.

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7 References in paragraphs 5 and 6 to the discharge of any of the functions of a Service Authority include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.

8 (1) For the purposes of paragraphs 5 and 6, "officer"—

(a) in relation to the NCIS Service Authority, means the Director General of NCIS, his deputy while performing the duties of the Director General and any person employed by the Authority; and

(b) in relation to the NCS Service Authority, means the Director General of the National Crime Squad, his deputy while performing the duties of the Director General and any person employed by the Authority.

(2) Where pursuant to arrangements made by virtue of paragraph 5 or 6 the Director General of NCIS, or his deputy, may discharge functions of the NCIS Service Authority, he may arrange for the discharge of any of those functions by any other member of NCIS.

(3) Where pursuant to arrangements made by virtue of paragraph 5 or 6 the Director General of the National Crime Squad, or his deputy, may discharge functions of the NCS Service Authority, he may arrange for the discharge of any of those functions by any other member of that Squad.

Interpretation

9 In this Schedule "Service Authority" means—

(a) the NCIS Service Authority, or

(b) the NCS Service Authority."

Commencement Information

I18 Sch. 6 para. 21 partly in force; Sch. 6 para. 21 not in force at Royal Assent, see s. 138; Sch. 6 para. 21 in force at 1.4.2002 for certain purposes by S.I. 2002/344, **art. 3** (with art. 4)

PART 2

LOCAL GOVERNMENT ENACTMENTS RELATING TO NCS SERVICE AUTHORITY

Local Government Act 1972 (c. 70)

22 The Local Government Act 1972 shall be amended as follows.

23 In section 94 (disability of members of authorities for voting on account of interest in contracts, etc.), in subsection (5)(b) (receipts of certain allowances not to be treated as a pecuniary interest), the words "or paragraph 17 of Schedule 2 to the Police Act 1997" shall be omitted.

24 In section 98, the following shall be omitted—

(a) in subsection (1A) (application to joint authorities of provisions about members' interests), the words "and the Service Authority for the National Crime Squad"; and

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(b) subsection (1B) (powers to remove a disability resulting from members' interests restricted to cases where transaction of business impeded).

25 In section 99 (meeting and proceedings of local authorities), the words ", the Service Authority for the National Crime Squad" shall be omitted.

26 In section 100J (application to joint authorities etc. of provision relating to access to meetings and documents), the following shall be omitted—

(a) subsection (1)(ea);
(b) in subsection (3), the word ", (ea)";
(c) subsection (3A); and
(d) in subsection (4), the words "or the Service Authority for the National Crime Squad".

27 In section 107 (application to police authorities of provisions relating to the discharge of functions by local authorities)—

(a) in subsection (7), for "(a), (aa) and (b)" there shall be substituted " (a) and (b) "; and
(b) subsection (8A) shall be omitted.

28 In section 146A (application to police authorities of miscellaneous powers of local authorities)—

(a) in subsection (1)—
(i) for "subsections (1A) and (1AA)" there shall be substituted " subsection (1A) "; and
(ii) for ", the Metropolitan Police Authority and the Service Authority for the National Crime Squad" there shall be substituted " and the Metropolitan Police Authority ";
(b) in subsection (1A), the words "nor the Service Authority for the National Crime Squad" shall be omitted; and
(c) subsection (1AA) shall be omitted.

29 In section 223 (appearance of local authorities in legal proceedings), in subsection (2), for ", the Metropolitan Police Authority and the Service Authority for the National Crime Squad" there shall be substituted " and the Metropolitan Police Authority ".

30 In section 228 (inspection of documents), in subsection (7A), the words "or the Service Authority for the National Crime Squad" shall be omitted.

31 The words "and the Service Authority for the National Crime Squad" shall be omitted where they appear—

(a) in section 229 (photographic copies of documents), in subsection (8);
(b) in section 231 (service of notices on local authorities, etc.), in subsection (4);
(c) in section 232 (public notices), in subsection (1A);
(d) in section 233 (service of notices by local authorities), in subsection (11); and
(e) in section 234 (authentication of documents), in subsection (4).

32 In Schedule 12 (meetings and proceedings of local authorities), the following shall be omitted—

(a) in paragraph 6A, the words "or of the Service Authority for the National Crime Squad";

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(b) in paragraph 6B—

(i) in sub-paragraph (b), the words "or of the Service Authority for the National Crime Squad,"; and

(ii) sub-paragraph (c) and the word "and" immediately preceding it;

and

(c) in paragraph 46, the words "and the Service Authority for the National Crime Squad".

Local Government Act 1974 (c. 7)

33 In section 25 of the Local Government Act 1974 (authorities subject to investigation by Commission for Local Administration), in subsection (1), paragraph (caa) shall be omitted.

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

34 In section 30 of the Local Government (Miscellaneous Provisions) Act 1976 (power to forgo repayment of remuneration paid to deceased employees), in subsection (3), the words ", and a member of the National Crime Squad within section 55(1)(a) or (b) of the Police Act 1997 shall be treated as employed by the Service Authority for the National Crime Squad," shall be omitted.

35 In section 44 of that Act (interpretation), in subsection (1)(a) the words ", the Service Authority for the National Crime Squad" shall be omitted.

Local Government, Planning and Land Act 1980 (c. 65)

36 In section 20 of the Local Government, Planning and Land Act 1980 (interpretation of provisions relating to direct labour organisations), in subsection (1)—

(a) in paragraph (a)(i) of the definition of "local authority", the words ", the Service Authority for the National Crime Squad" shall be omitted; and

(b) in paragraph (aa) of the definition the words "or the Service Authority for the National Crime Squad" shall be omitted.

37 In section 99 of that Act (directions to dispose of land), in subsection (4), paragraph (dd) shall be omitted.

38 In Schedule 16 to that Act (bodies to whom provisions of Part 10 relating to registration of land apply), paragraph 5D shall be omitted.

Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

39 In section 33 of the Local Government (Miscellaneous Provisions) Act 1982 (enforceability by local authorities of certain covenants relating to land), in subsection (9)(a), the words ", the Service Authority for the National Crime Squad" shall be omitted.

40 In section 41 of that Act (lost and uncollected property), in subsection (13), in the definition of "local authority" paragraph (cb) shall be omitted.

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Local Government Act 1986 (c. 10)

41 In section 6 of the Local Government Act 1986 (interpretation of provisions relating to publicity and promotion of homosexuality), in subsection (2)(a), the words "the Service Authority for the National Crime Squad," shall be omitted.

42 In section 9 of that Act (interpretation of provisions relating to the transfer of mortgages), in subsection (1)(a), the words "the Service Authority for the National Crime Squad," shall be omitted.

Local Government Act 1988 (c. 9)

43 In section 1 of the Local Government Act 1988 (defined authorities for provisions on competition), in subsection (1), paragraph (ea) shall be omitted.

44 In Schedule 2 to that Act, in the list of public authorities to which provisions on supply or works contracts apply, the entry for the Service Authority for the National Crime Squad shall be omitted.

Local Government Finance Act 1988 (c. 41)

45 The Local Government Finance Act 1988 shall be amended as follows.

46 In section 111, in subsection (2) (definition of "relevant authority" for the purposes of provisions regulating financial administration), paragraph (ea) (the Service Authority for the National Crime Squad) shall be omitted.

47 In section 112 (financial administration as to certain police and fire authorities), in subsection (2), paragraph (ab) shall be omitted.

48 In section 114 (functions of chief finance officer as regards reports), subsection (9) shall be omitted.

Local Government and Housing Act 1989 (c. 42)

49 The Local Government and Housing Act 1989 shall be amended as follows.

50 In section 21, in subsection (1) (definition of local authority for purposes of various provisions relating to their members, officers, staff and committees, etc.), in paragraph (g), for ", the Metropolitan Police Authority or the Service Authority for the National Crime Squad" there shall be substituted " or the Metropolitan Police Authority ".

51 In section 39, in subsection (1) (authorities to which provisions about revenue accounts and capital finance apply), paragraph (ja) (the Service Authority for the National Crime Squad) shall be omitted.

52 In section 67 (application of provisions relating to companies in which local authorities have interests), in subsection (3)(i), the words "or the Service Authority for the National Crime Squad" shall be omitted.

53 In section 155 (emergency assistance to local authorities), in subsection (4)—

(a) at the end of paragraph (ea) there shall be inserted " or "; and

(b) paragraph (eb) (National Crime Squad) shall be omitted.

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54 In section 157 (commutation of, and interest on, periodic payments of grants, etc.), subsection (6)(ga) shall be omitted.

PART 3

MISCELLANEOUS OTHER ENACTMENTS

Public Records Act 1958 (c. 51)

55 In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3 the following entries shall be inserted at the appropriate places—

"The Service Authority for the National Crime Squad."

"The Service Authority for the National Criminal Intelligence Service."

Parliamentary Commissioner Act 1967 (c. 13)

56 In Schedule 2 to the Parliamentary Commissioner Act 1968 (departments etc subject to investigation), the following entries shall be inserted at the appropriate places—

"The Service Authority for the National Crime Squad."

"The Service Authority for the National Criminal Intelligence Service."

Employers' Liability (Compulsory Insurance) Act 1969 (c. 57)

57 In section 3 of the Employers' Liability (Compulsory Insurance) Act 1969 (employers exempted from insurance), in subsection (2)(b) for ", any police authority, the Service Authority for the National Criminal Intelligence Service and the Service Authority for the National Crime Squad" there shall be substituted " and any police authority ".

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

58 In section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities), in subsection (4), in the definition of "public body" the words ", the Service Authority for the National Crime Squad, the Service Authority for the National Criminal Intelligence Service" shall be omitted.

Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (N.I. 6)

59 In Article 7 of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (employers exempted from insurance), paragraph (ab) shall be omitted.

House of Commons Disqualification Act 1975 (c. 24)

60 In the House of Commons Disqualification Act 1975, in Part 2 of Schedule 1 (bodies whose members are disqualified), the following entries shall be inserted at the appropriate places—

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"The Service Authority for the National Crime Squad."

"The Service Authority for the National Criminal Intelligence Service."

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

61 In the Northern Ireland Assembly Disqualification Act 1975, in Part 2 of Schedule 1 (bodies whose members are disqualified), the following entries shall be inserted at the appropriate places—

"The Service Authority for the National Crime Squad."

"The Service Authority for the National Criminal Intelligence Service."

Rent (Agriculture) Act 1976 (c. 80)

62 In section 5 of the Rent (Agriculture) Act 1976 (no statutory tenancy where landlord's interest belongs to the Crown etc), in subsection (3), in paragraph (baa), the words ", the Service Authority for the National Crime Squad and the Service Authority for the National Criminal Intelligence Service" shall be omitted.

Rent Act 1977 (c. 42)

63 In section 14 of the Rent Act 1977 (landlord's interest belonging to local authority, etc), paragraph (caaa) shall be omitted.

Finance Act 1981 (c. 35)

64 In section 107 of the Finance Act 1981 (sale of houses at discount by local authorities etc), in subsection (3), paragraph (ka) shall be omitted.

Acquisition of Land Act 1981 (c. 67)

65 In section 17 of the Acquisition of Land Act 1981 (compulsory purchase of local authority and statutory undertakers' land), in subsection (4), in the definition (for the purposes of subsection (3)) of "local authority"—

(a) in paragraph (a), the words ", the Service Authority for the National Crime Squad, the Service Authority for the National Criminal Intelligence Service" shall be omitted, and

(b) in paragraph (b), the words ", the Service Authority for the National Crime Squad or the Service Authority for the National Criminal Intelligence Service" shall be omitted.

County Courts Act 1984 (c. 28)

66 In section 60 of the County Courts Act 1984 (right of audience for officer of local authority in proceedings brought by authority), in subsection (3), in the definition of "local authority" the words ", the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad" shall be omitted.

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Housing Act 1985 (c. 51)

67 In section 4 of the Housing Act 1985 (interpretation), in paragraph (e), the words “, the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad” shall be omitted.

Housing Associations Act 1985 (c. 69)

68 In section 106 of the Housing Associations Act 1985 (minor definitions), in subsection (1), in the definition of “local authority” for the words from “, the Metropolitan Police Authority” to the end of the definition there shall be substituted “ and the Metropolitan Police Authority ”.

Landlord and Tenant Act 1985 (c. 70)

69 In section 38 of the Landlord and Tenant Act 1985 (minor definitions), in the definition of “local authority”, the words “, the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad” shall be omitted.

Landlord and Tenant Act 1987 (c. 31)

70 In section 58 of the Landlord and Tenant Act 1987, in subsection (1) (definition of “exempt landlord”), in paragraph (a), the words “, the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad” shall be omitted.

Income and Corporation Taxes Act 1988 (c. 1)

71 In section 842A of the Income and Corporation Taxes Act 1988 (meaning of “local authority” in the Tax Acts), in subsection (1)—

(a) in paragraph (a) the words “or the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad” shall be omitted; and

(b) in both paragraphs (b) and (c) the words “or the Service Authority for the National Criminal Intelligence Service” shall be omitted.

Local Government Finance Act 1988 (c. 41)

72 In section 64, in subsection (7) (exclusion from Crown exemption of hereditaments of certain authorities), paragraphs (da) and (db) shall be omitted.

73 In section 65A (Crown property), in subsection (4)(b) for the words from “, a police authority” to the end there shall be substituted “ or by a police authority established under section 3 of the Police Act 1996. ”

Housing Act 1988 (c. 50)

74 F51 . . . . . .

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Textual Amendments

F51 Sch. 6 para. 74 repealed (24.7.2002) by Police Reform Act 2002 (c. 30), ss. 107, 108(3), **Sch. 8**

Town and Country Planning Act 1990 (c. 8)

75 In section 252 of the Town and Country Planning Act 1990 (procedure for making of orders relating to highways), in subsection (12), in the definition of "local authority" the words ", the Service Authority for the National Crime Squad, the Service Authority for the National Criminal Intelligence Service" shall be omitted.

Local Government Finance Act 1992 (c. 14)

76 In section 19 of the Local Government Finance Act 1992 (exclusion of Crown exemption in certain cases), in subsection (3), paragraphs (ca) and (cb) shall be omitted.

Police Act 1996 (c. 16)

77 (1) Section 62 of the 1996 Act (functions of the Police Negotiating Board with respect to regulations, etc.) shall be amended as follows.

(2) In subsection (1A), for "section 6, 9(1)(b), 52 or 55(1)(b)" there shall be substituted " section 9(1)(b) or 55(1)(b) ".

(3) After that subsection there shall be inserted—

"(1B) Before determining the terms and conditions on which a person is to be appointed under section 6 or 52 of the Police Act 1997, the Secretary of State shall—

(a) consult the Police Negotiating Board for the United Kingdom about any term or condition which relates to any of the matters mentioned in section 61(1) (other than pensions), and

(b) take into consideration any recommendations made by the Board."

(4) in subsection (2), for "or (1A)" there shall be substituted " , (1A) or (1B) ".

Housing Grants, Construction and Regeneration Act 1996 (c. 53)

78 The Housing Grants, Construction and Regeneration Act 1996 shall be amended as follows.

79 In section 3 (persons ineligible for certain grants), in subsection (2)(g), the words ", the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad" shall be omitted.

80 In section 64, in subsection (7)(persons ineligible to participate in group repair schemes as assisted participants), in paragraph (e), the words ", the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad" shall be omitted.

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SCHEDULE 7

Section 137

REPEALS AND REVOCATIONS

PART 1

PROVISIONS FOR COMBATTING ALCOHOL-RELATED DISORDER

Short title and chapter	*Extent of repeal*
The Licensing Act 1964 (c. 26).	In section 196A(1), at the end of paragraph (a), the word "and".

PART 2

FINGERPRINTS AND SAMPLES

Commencement Information

I19 Sch. 7 Pt. 2 wholly in force at 1.4.2003; Sch. 7 Pt. 2 not in force at Royal Assent, see s. 138; Sch. 7 Pt. 2 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(1)(g); Sch. 7 Pt. 2 in force for certain purposes at 1.1.2003 by S.I. 2002/3032, **art. 2**; Sch. 7 Pt. 2 in force in so far as not already in force at 1.4.2003 by S.I. 2003/708, **art. 2(m)**

(1) REPEALS

Short title and chapter	*Extent of repeal*
The Criminal Justice Act 1948 (c. 58).	Section 39.
The Criminal Justice Act 1961 (c. 39).	In Schedule 4, the entry relating to section 39 of the Criminal Justice Act 1948.
The Police and Criminal Evidence Act 1984 (c. 60).	Section 27(4A). Section 64(4).
The Criminal Justice and Public Order Act 1994 (c. 33).	Section 57(3).
The Crime and Disorder Act 1998 (c. 37).	In Schedule 8, paragraph 61.

(2) REVOCATION

Title and reference	*Extent of revocation*
The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989 1341 (N.I. 12)).	Article 64(4).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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PART 3

POLICE TRAINING

Short title and chapter	***Extent of repeal***
The Police Act 1996 (c. 16).	In section 54(2), the word "and", in the third place where it occurs.

PART 4

POLICE ORGANISATION

Commencement Information

I20 Sch. 7 Pt. 4 wholly in force at 1.4.2002; Sch. 7 Pt. 4 not in force at Royal Assent see s. 138; Sch. 7 Pt. 4 in force for certain purposes at 19.6.2001 by S.I. 2001/2223, art. 2(1)(h); Sch. 7 Pt. 4 in force for certain purposes at 1.12.2001 and 1.1.2002 by S.I. 2001/3736, arts. 2(g), 3(c); Sch. 7 Pt. 4 in force for certain purposes at 1.4.2002 by S.I. 2002/344, **art.3** (with art. 4)

Short title and chapter	**Extent of repeal**
The Police Act 1996.	In section 12, subsections (4) to (6). Section 13(2). In Schedule 2— (a) paragraph 10; (b) in paragraph 16(1)(a), the words from "or a term" to "shorter"; and (c) in paragraph 25(1), the words "and allowances". In Schedule 2A, in paragraph 20— (a) in sub-paragraph (1), the words "and allowances"; and (b) sub-paragraph (2). In Schedule 3— (a) in each of paragraphs 2 and 9(a), the word "10"; and (b) in paragraph 3, in sub-paragraph (1), the words "for a police area listed in Schedule 1" and the words from "or for a term" to "shorter", and sub-paragraph (1A).
The Police Act 1997 (c. 50).	In Schedule 2— (a) paragraph 1(b) and the word "or" immediately preceding it; (b) in paragraph 5(a), the words from "or a term" to "shorter"; and (c) in paragraph 17, in sub-paragraph (1) the words "and allowances", and sub-paragraph (2).

Status: *Point in time view as at 24/03/2003. This version of this Act contains provisions that are not valid for this point in time.*
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The Greater London Authority Act 1999 (c. 29).	In Schedule 27, paragraph 106(5) and (6).

PART 5

NCIS AND NCS

Commencement Information

I21 Sch. 7 Pt. 5 wholly in force at 1.4.2002; Sch. 7 Pt. 5 not in force at Royal Assent see s. 138; Sch. 7 Pt. 5 in force for certain purposes at 1.8.2001 by S.I. 2001/2223, art. 3(l); Sch. 7 Pt. 5 in force at 1.4.2002 in so far as not already in force by S.I. 2002/344, **art. 3** (with art. 4)

(1) Repeals

Short title and chapter	*Extent of repeal*
The Local Authorities (Goods and Services) Act 1970 (c. 39).	In section 1(4), in the definition of "public body", the words ", the Service Authority for the National Crime Squad, the Service Authority for the National Criminal Intelligence Service".
The Local Government Act 1972 (c. 70).	In section 94(5)(b), the words "or paragraph 17 of Schedule 2 to the Police Act 1997". In section 98— (a) in subsection (1A) the words "and the Service Authority for the National Crime Squad"; and (b) subsection (1B). In section 99 the words ", the Service Authority for the National Crime Squad". In section 100J— (a) subsection (1)(ea); (b) in subsection (3) the word ", (ea)"; (c) subsection (3A); and (d) in subsection (4) the words "or the Service Authority for the National Crime Squad". Section 107(8A). In section 146A— (a) in subsection (1A) the words "nor the Service Authority for the National Crime Squad"; and (b) subsection (1AA). In section 228(7A) the words "or the Service Authority for the National Crime Squad". In section 229(8) the words "and the Service Authority for the National Crime Squad". In section 231(4) the words "and the Service Authority for the National Crime Squad".

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	In section 232(1A) the words "and the Service Authority for the National Crime Squad". In section 233(11) the words "and the Service Authority for the National Crime Squad". In section 234(4) the words "and the Service Authority for the National Crime Squad". In Schedule 12— (a) in paragraph 6A the words ", or of the Service Authority for the National Crime Squad"; (b) in paragraph 6B(b) the words " or of the Service Authority for the National Crime Squad,"; (c) in paragraph 6B, sub-paragraph (c) and the word "and" immediately preceding it; and (d) in paragraph 46 the words "and the Service Authority for the National Crime Squad".
The Local Government Act 1974 (c. 7).	Section 25(1)(caa).
The Local Government (Miscellaneous Provisions) Act 1976 (c .57).	In section 30(3) the words ", and a member of the National Crime Squad within section 55(1)(a) or (b) of the Police Act 1997 shall be treated as employed by the Service Authority for the National Crime Squad,". In section 44(1)(a) the words ", the Service Authority for the National Crime Squad".
The Rent (Agriculture) Act 1976 (c. 80).	In section 5(3)(baa) the words ", the Service Authority for the National Crime Squad and the Service Authority for the National Criminal Intelligence Service".
The Rent Act 1977 (c. 42).	Section 14(caaa).
The Local Government, Planning and Land Act 1980 (c. 65).	In section 20(1)— (a) in paragraph (a)(i) of the definition of "local authority", the words ", the Service Authority for the National Crime Squad"; and (b) in paragraph (aa) of that definition "or the Service Authority for the National Crime Squad". Section 99(4)(dd). In Schedule 16, paragraph 5D.
The Finance Act 1981 (c. 35).	Section 107(3)(ka).
The Acquisition of Land Act 1981 (c. 67).	In section 17(4), in the definition (for the purposes of subsection (3)) of "local authority"— (a) in paragraph (a) the words ", the Service Authority for the National Crime Squad, the

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	Service Authority for the National Criminal Intelligence Service", and (b) in paragraph (b) the words ", the Service Authority for the National Crime Squad or the Service Authority for the National Criminal Intelligence Service".
The Local Government (Miscellaneous Provisions) Act 1982 (c. 30).	In section 33(9)(a) the words ", the Service Authority for the National Crime Squad". In section 41(13), in the definition of "local authority", paragraph (cb).
The County Courts Act 1984 (c. 28).	In section 60(3), in the definition of "local authority", the words ", the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad."
The Housing Act 1985 (c. 68).	In section 4(e), the words ", the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad".
The Landlord and Tenant Act 1985 (c. 70).	In section 38, in the definition of "local authority", the words ", the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad".
The Local Government Act 1986 (c. 10).	In section 6(2)(a) the words "the Service Authority for the National Crime Squad,". In section 9(1)(a) the words "the Service Authority for the National Crime Squad,".
The Landlord and Tenant Act 1987 (c. 31).	In section 58(1)(a) the words ", the Service Authority for the National Criminal Intelligence Service, the Service Authority for the National Crime Squad".
The Income and Corporation Taxes Act 1988 (c. 1).	In section 842A(1)— (a) in paragraph (a), the words "or the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad"; and (b) in both paragraphs (b) and (c), the words "or the Service Authority for the National Criminal Intelligence Service".
The Local Government Act 1988 (c. 9).	Section 1(1)(ea). In Schedule 2, the words "The Service Authority for the National Crime Squad."
The Local Government Finance Act 1988 (c. 41).	Section 64(7)(da) and (db). Section 111(2)(ea). In section 112(2), paragraph (ab). Section 114(9).

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The Local Government and Housing Act 1989 (c. 42).	Section 39(1)(ja). In section 67(3)(i) the words “or the Service Authority for the National Crime Squad”. Section 155(4)(eb). Section 157(6)(ga).
The Town and Country Planning Act 1990 (c. 8).	In section 252(12), in the definition of “local authority”, the words “, the Service Authority for the National Crime Squad, the Service Authority for the National Criminal Intelligence Service”.
The Local Government Finance Act 1992 (c. 14).	Section 19(3)(ca) and (cb). Section 32(6A). Section 43(5A).
The Housing Grants, Construction and Regeneration Act 1996 (c. 53).	In section 3(2)(g) the words “, the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad”. In section 64(7)(e) the words “, the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad”.
The Police Act 1997 (c. 50).	In section 1(4)— (a) in paragraph (a), the words “(if it is then in existence)”; and (b) the word “and” at the end of paragraph (d). In section 2(6), the words “or under Schedule 3”. In section 3(4), the word “and” at the end of paragraph (c). In section 4(5), the word “and” at the end of paragraph (f). In section 5(3), the word “and” at the end of paragraph (f). In section 6— (a) in subsection (2) the words “after consultation with the Scottish Ministers”; (b) in subsection (4)(a) the words “(other than under paragraph 6, 7(f) or 8(1)(h) of Schedule 1)”; and (b) in subsection (4)(b) the words “local authority” and “(as defined in paragraph 14 of that Schedule)”. Section 7. Section 9(10). Section 16(3). Section 18. In section 26(2), the word “and” at the end of paragraph (g). In section 41—

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(a) in subsection (1), the word "and" at the end of paragraph (c), and
(b) in subsection (2), the word "and" at the end of paragraph (e).
Section 44.
In section 47(4)(a), the words "(if it is then in existence)".
In section 48(7), the words "or under Schedule 5".
In section 49(4), the word "and" at the end of paragraph (b).
In section 50(5), the word "and" at the end of paragraph (d).
In section 51(3), the word "and" at the end of paragraph (d).
In section 52—
(a) in subsection (4)(a) the words "(other than under paragraph 6 of Schedule 1)"; and
(b) in subsection (4)(b) the words "local authority" and "(as defined in paragraph 14 of that Schedule)".
Section 53.
Section 55(10).
Section 61(3).
Sections 63, 67 and 68.
In section 71(2), the word "and" at the end of paragraph (e).
In section 85—
(a) in subsection (1), the word "and" at the end of paragraph (b), and
(b) in subsection (2), the word "and" at the end of paragraph (b).
Section 137(2)(d).
In Schedule 1—
(a) in paragraph 2(2)(c), the words "local authority";
(b) in paragraph 2(4), the words "in relation to the NCIS Service Authority".
(c) paragraph 3(2);
(d) in paragraph 4(1), the words "local authority";
(e) paragraph 4(2);
(f) in paragraph 8(1)(e), the words "(being not less than two)" and "local authority";
(g) paragraph 8(2);
(h) in paragraph 9(b), the words "local authority";
(j) in paragraph 10(1)(c), the words "(being not less than six)" and "local authority";
(k) paragraph 10(2);
(l) paragraph 12;
(m) in paragraph 13(a), the words "local authority"; and

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	(n) paragraph 14. In Schedule 2, paragraph 9. Schedules 3, 4 and 5. Schedule 6 (other than paragraphs 5(1) and (2), 6(1), (2) and (3)(a) and (c), 7 and 29). In Schedule 9, paragraphs 23, 25, 38, 39, 42, 43, 45, 49, 51 to 53, 55, 63, 67 and 68.
The Audit Commission Act 1998 (c. 18).	In section 17(7), paragraph (g) and the word "and" immediately preceding it. In section 32(2), paragraph (b) and the word "or" immediately preceding it. In Schedule 2, paragraph 1(1). In Schedule 3, paragraph 33.
The Greater London Authority Act 1999 (c. 29).	Section 86(3). Section 104(3)(b). In Schedule 27, paragraphs 28(2), 29, 63, 110, 111, 113(3), 114 and 115.
The Police (Northern Ireland) Act 2000 (c. 32).	In Schedule 6, in paragraph 20(7), the words "(7)(b) and".

(2) Revocations

Title and reference	*Extent of revocation*
The Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order (S.I. 1972 963 (N.I. 6)).	Article 7(ab).
The Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747).	In Schedule 18, paragraph 2(6), (7), (15)(a), (25), (27) and (28)(b).

PART 6

MISCELLANEOUS

Commencement Information

I22 Sch. 7 Pt. 6 partly in force; Sch. 7 Pt. 6 not in force at Royal Assent see s. 138; Sch. 7 Pt. 6 in force for certain purposes at 1.8.2001 by S.I. 2001/2223, **art. 3(m)**

Short title and chapter	*Extent of repeal*
The Bail Act 1976 (c. 63).	In Schedule 1, paragraph 9A.
The Criminal Justice Act 1988 (c. 33).	Section 153.

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