



# Police Reform Act 2002

## 2002 CHAPTER 30

### PART 4

#### POLICE POWERS ETC.

### CHAPTER 2

#### PROVISIONS MODIFYING AND SUPPLEMENTING POLICE POWERS

#### *Powers of arrest*

#### **48 Offences for which a person may be arrested without a warrant**

- (1) The 1984 Act shall be amended as follows.
- (2) In subsection (1)(c) of section 24 (arrestable offences), for “to which subsection (2) below applies” there shall be substituted “ listed in Schedule 1A ”.
- (3) For subsection (2) of that section there shall be substituted—
  - “(2) Schedule 1A (which lists the offences referred to in subsection (1)(c)) shall have effect.”
- (4) In subsection (3) of that section (attempts)—
  - (a) in paragraph (a), for “mentioned in subsection (2) above” there shall be substituted “ listed in Schedule 1A ”; and
  - (b) in paragraph (b), for “an offence under section 12(1) of the Theft Act 1968 (c. 60)” there shall be substituted “ one which is a summary offence ”.
- (5) After Schedule 1 there shall be inserted the Schedule set out in Schedule 6.
- (6) This section has no effect in relation to offences committed before its commencement.

*Status: Point in time view as at 01/04/2003.*

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#### **49 Power of arrest in relation to failure to stop a vehicle**

(1) In section 163 of the Road Traffic Act 1988 (c. 52) (failure to stop when required to do so by a constable in uniform), after subsection (3) there shall be inserted—

“(4) A constable in uniform may arrest a person without warrant if he has reasonable cause to suspect that the person has committed an offence under this section.”

(2) In section 17(1)(c) of the 1984 Act (power of entry to effect arrest for certain offences), after sub-paragraph (iii) there shall be inserted—

“(iiiia) section 163 of the Road Traffic Act 1988 (c. 52) (failure to stop when required to do so by a constable in uniform);”.

(3) This section has no effect in relation to offences committed before its commencement.

*Power to require name and address*

#### **50 Persons acting in an anti-social manner**

(1) If a constable in uniform has reason to believe that a person has been acting, or is acting, in an anti-social manner (within the meaning of section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders)), he may require that person to give his name and address to the constable.

(2) Any person who—

- (a) fails to give his name and address when required to do so under subsection (1), or
- (b) gives a false or inaccurate name or address in response to a requirement under that subsection,

is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

*Persons in police detention*

#### **51 Independent custody visitors for places of detention**

(1) Every police authority shall—

- (a) make arrangements for detainees to be visited by persons appointed under the arrangements (“independent custody visitors”); and
- (b) keep those arrangements under review and from time to time revise them as they think fit.

(2) The arrangements must secure that the persons appointed under the arrangements are independent of both—

- (a) the police authority; and
- (b) the chief officer of police of the police force maintained by that authority.

(3) The arrangements may confer on independent custody visitors such powers as the police authority considers necessary to enable them to carry out their functions under the arrangements and may, in particular, confer on them powers—

- (a) to require access to be given to each police station;

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- (b) to examine records relating to the detention of persons there;
  - (c) to meet detainees there for the purposes of a discussion about their treatment and conditions while detained; and
  - (d) to inspect the facilities there including in particular, cell accommodation, washing and toilet facilities and the facilities for the provision of food.
- (4) The arrangements may include provision for access to a detainee to be denied to independent custody visitors if—
  - (a) it appears to an officer of or above the rank of inspector that there are grounds for denying access at the time it is requested;
  - (b) the grounds are grounds specified for the purposes of paragraph (a) in the arrangements; and
  - (c) the procedural requirements imposed by the arrangements in relation to a denial of access are complied with.
- (5) Grounds shall not be specified in any arrangements for the purposes of subsection (4) (a) unless they are grounds for the time being set out for the purposes of this subsection in the code of practice issued by the Secretary of State under subsection (6).
- (6) The Secretary of State shall issue, and may from time to time revise, a code of practice as to the carrying out by police authorities and independent custody visitors of their functions under the arrangements.
- (7) Before issuing or revising a code of practice under this section, the Secretary of State shall consult with—
  - (a) persons whom he considers to represent the interests of police authorities;
  - (b) persons whom he considers to represent the interests of chief officers of police; and
  - (c) such other persons as he thinks fit.
- (8) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.
- (9) Police authorities and independent custody visitors shall have regard to the code of practice for the time being in force under subsection (6) in the carrying out of their functions under the preceding provisions of this section.
- (10) In this section “detainee”, in relation to arrangements made under this section, means a person detained in a police station in the police area of the police authority.

## **52 Detention reviews for detained persons who are asleep**

- (1) In section 40 of the 1984 Act (review of police detention), in subsection (8) for the words from “the substitution” to the end there shall be substituted “ the modifications specified in subsection (8A) ”.
- (2) After that subsection there shall be inserted—
  - “(8A) The modifications are—
    - (a) the substitution of references to the person whose detention is under review for references to the person arrested;
    - (b) the substitution of references to the review officer for references to the custody officer; and

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- (c) in subsection (6), the insertion of the following paragraph after paragraph (a)—
  - “(‘) asleep;””
- (3) In subsection (10) of that section—
  - (a) for “(6)” there shall be substituted “ (6B) ”; and
  - (b) for the words from “the substitution” to the end there shall be substituted “ the modifications specified in subsection (10A) ”.
- (4) After that subsection there shall be inserted—
  - “(10A) The modifications are—
    - (a) the substitution of a reference to the person whose detention is under review for any reference to the person arrested or to the person charged; and
    - (b) in subsection (5), the insertion of the following paragraph after paragraph (a)—
      - “(‘) asleep;””

### **53 Persons suspected of offences connected with transport systems**

- (1) In section 34(6) of the 1984 Act (persons treated as arrested for an offence), after “1988” there shall be inserted “ or section 30(2) of the Transport and Works Act 1992 (c. 42) ”.
- (2) In section 62(11) of that Act (provisions of the Road Traffic Act 1988 (c. 52) relating to the taking of specimens not to be affected by provisions of that section)—
  - (a) for “affects” there shall be substituted “ applies to the taking of a specimen for the purposes of any of the provisions of ”; and
  - (b) after “Road Traffic Act 1988” there shall be inserted “ or of sections 26 to 38 of the Transport and Works Act 1992 ”.

#### *Blood specimens*

### **54 Persons authorised to take intimate samples from persons in police detention**

- (1) For subsection (9) of section 62 of the 1984 Act (persons who may take intimate samples) there shall be substituted—
  - “(9) In the case of an intimate sample which is a dental impression, the sample may be taken from a person only by a registered dentist.
  - (9A) In the case of any other form of intimate sample, except in the case of a sample of urine, the sample may be taken from a person only by—
    - (a) a registered medical practitioner; or
    - (b) a registered health care professional.”
- (2) In section 65 of the 1984 Act (interpretation of Part 5 of that Act), in subsection (1) after the definition of “registered dentist” there shall be inserted—
  - ““registered health care professional” means a person (other than a medical practitioner) who is—
    - (a) a registered nurse; or

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(b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State;”.

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

“(1A) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(1B) An order under subsection (1) shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

- II** S. 54 wholly in force at 1.4.2003; s. 54 not in force at Royal Assent, see s. 108(2); s. 54(2)(3) in force for certain purposes at 1.10.2002 by S.I. 2002/2306, art. 4(d); s. 54 in force in so far as not already in force at 1.4.2003 by S.I. 2003/808, art. 2(e)

## 55 Extension of role of health care professionals

(1) In subsection (4) of section 7 of the Road Traffic Act 1988 (constable to decide if specimen is of blood or urine) for the words from “shall be decided” onwards there shall be substituted “ and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (4A)) by the constable making the requirement ”.

(2) After that subsection there shall be inserted—

“(4A) Where a constable decides for the purposes of subsection (4) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—

- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
- (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner;

and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.”

(3) In subsection (2) of section 11 of that Act (interpretation of sections 3A to 10 of that Act), after the definition of “prescribed limit” there shall be inserted—

““registered health care professional” means a person (other than a medical practitioner) who is—

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.”

(4) After that subsection there shall be inserted—

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“(2A) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(2B) An order under subsection (2) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(5) For subsection (4) of that section there shall be substituted—

“(4) A person provides a specimen of blood if and only if—

- (a) he consents to the taking of such a specimen from him; and
- (b) the specimen is taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.”

#### **Commencement Information**

- I2** S. 55 wholly in force at 1.4.2003; s. 55 not in force at Royal Assent, see s. 108(2); s. 55(2)(3) in force for certain purposes at 1.10.2002 by S.I. 2002/2306, art. 4(d); s. 55 in force in so far as not already in force at 1.4.2003 by S.I. 2003/808, art. 2(e)

## **56 Specimens taken from persons incapable of consenting**

(1) After section 7 of the Road Traffic Act 1988 (c. 52) there shall be inserted—

### **“7A Specimens of blood taken from persons incapable of consenting**

- (1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—
- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 9) be entitled under section 7 to require the provision of a specimen of blood for a laboratory test;
  - (b) it appears to that constable that that person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;
  - (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
  - (d) it appears to that constable that that person’s incapacity is attributable to medical reasons.
- (2) A request under this section—
- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
  - (b) shall not be made to a medical practitioner other than a police medical practitioner unless—

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- (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
    - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.
  - (3) It shall be lawful for a medical practitioner to whom a request is made under this section, if he thinks fit—
    - (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
    - (b) to provide the sample to a constable.
  - (4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—
    - (a) has been informed that it was taken; and
    - (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
    - (c) has given his permission.
  - (5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.
  - (6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.
  - (7) In this section “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of a police force.”
- (2) In section 9 of that Act (protection of hospital patients), for subsection (2) there shall be substituted—

“(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 7A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case—

  - (a) has been notified of the proposal to take the specimen or to make the requirement; and
  - (b) has not objected on the ground specified in subsection (2).

(2) The ground on which the medical practitioner may object is—

  - (a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 7(7) of this Act would be prejudicial to the proper care and treatment of the patient; and
  - (b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 7A(5) of this Act would be so prejudicial.”
- (3) In section 34(3) of the Road Traffic Offenders Act 1988 (c. 53) (disqualification for certain offences where offender has previous conviction)—
  - (a) the word “and” at the end of paragraph (b) shall be omitted; and

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(b) after paragraph (c) there shall be inserted—

“(d) section 7A(6) (failing to allow a specimen to be subjected to laboratory test) where that is an offence involving obligatory disqualification;”.

(4) In Schedule 1 to the Road Traffic Offenders Act 1988 (offences to which sections 1, 11 and 12(1) of that Act apply), in the Table, after the entry beginning “RTA section 7” there shall be inserted—

|                 |   |                         |
|-----------------|---|-------------------------|
| “RTA section 7A | Failing to allow specimen of blood to be subjected to laboratory test | Sections 11 and 12(1).” |
|-----------------|---|-------------------------|

(5) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences under the Traffic Acts), after the entry beginning “RTA section 7” there shall be inserted—

|                 |  |           |   |  |            |  |
|-----------------|--|-----------|---|--|------------|--|
| “RTA section 7A | Failing to allow specimen to be subjected to laboratory test | Summarily | (a) Where the test would be for ascertaining ability to drive or proportion of alcohol at the time offender was driving or attempting to drive, 6 months or level 5 on the standard scale or both.<br>(b) In any other case, 3 months or level 4 on the standard scale or both. | (a) Obligatory in the case mentioned in column 4(a)<br>(b) Discretionary in any other case | Obligatory | 3-11, in case mentioned in column 4(a) 10, in any other case.” |
|-----------------|--|-----------|---|--|------------|--|

(6) In section 143(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (power to forfeit property used for the purposes of an offence under section 7 of the Road Traffic Act 1988 (c. 52))—

- (a) after “7” there shall be inserted “ or 7A ”; and
- (b) after “test” there shall be inserted “ or to give permission for such a test ”.



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## 57 Use of specimens taken from persons incapable of consenting

- (1) In subsection (2) of section 15 of the Road Traffic Offenders Act 1988 (c. 53) (evidence of blood alcohol level)—
  - (a) after “provided by” there shall be inserted “ or taken from ”; and
  - (b) after the word “provided”, in the second place where it occurs, there shall be inserted “ or taken ”.
- (2) In subsection (3)(a) of that section (rebutting the assumption in subsection (2)), after “provided the specimen” there shall be inserted “ or had it taken from him ”.
- (3) In subsection (4) of that section (circumstances in which a specimen of blood is to be disregarded), for the words from “unless” to the end there shall be substituted “unless—
  - (a) it was taken from the accused with his consent and either—
    - (i) in a police station by a medical practitioner or a registered health care professional; or
    - (ii) elsewhere by a medical practitioner;
  - or
  - (b) it was taken from the accused by a medical practitioner under section 7A of the Road Traffic Act 1988 and the accused subsequently gave his permission for a laboratory test of the specimen.”
- (4) After subsection (5) of that section, there shall be inserted—

“(5A) Where a specimen of blood was taken from the accused under section 7A of the Road Traffic Act 1988, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—

  - (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
  - (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.”
- (5) In subsection (1) of section 16 of that Act (documentary evidence as to specimens), after “15(5)” there shall be inserted “ and (5A) ”.
- (6) In subsection (2) of that section (documentary evidence as to consent), after the words “medical practitioner”, in both places where they occur, there shall be inserted “ or a registered health care professional ”.

### Commencement Information

- I3** S. 57 wholly in force at 1.4.2003; s. 57 not in force at Royal Assent, see s. 108(2); s. 57(1)-(5) (except for certain words in subsection (3)) in force at 1.10.2002 by S.I. 2002/2306, art. 2(d)(v); s. 57 in force in so far as not already in force at 1.4.2003 by S.I. 2003/808, art. 2(e)

## 58 Equivalent provision for offences connected with transport systems

- (1) In subsection (6) of section 31 of the Transport and Works Act 1992 (c. 42) (constable to decide if specimen is of blood or urine), for the words from “shall be decided” onwards there shall be substituted “ and, in the case of a specimen of blood, the

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question who is to be asked to take it shall be decided (subject to subsection (6A)) by the constable making the requirement ”.

(2) After that subsection there shall be inserted—

“(6A) Where a constable decides for the purposes of subsection (6) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—

- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
  - (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner,
- and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.”

(3) After subsection (9) of that section there shall be inserted—

“(9A) In this section “health care professional” means a person (other than a medical practitioner) who is—

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.

(9B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(9C) An order under subsection (9A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) After section 31 of that Act there shall be inserted—

**“31A Specimens of blood taken from persons incapable of consenting**

(1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—

- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 33) be entitled under section 31 to require the provision of a specimen of blood for a laboratory test;
- (b) it appears to that constable that that person has been involved in—
  - (i) an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter; or
  - (ii) a dangerous incident (within the meaning given by section 29(3)) that constitutes or is comprised in that matter or those circumstances;
- (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and

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- (d) it appears to that constable that that person’s incapacity is attributable to medical reasons.
- (2) A request under this section—
    - (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
    - (b) shall not be made to a medical practitioner other than a police medical practitioner unless—
      - (i) it is not reasonably practicable for the request to made to a police medical practitioner; or
      - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.
  - (3) It shall be lawful for a medical practitioner to whom a request is made under this section, if he thinks fit—
    - (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
    - (b) to provide the sample to a constable.
  - (4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—
    - (a) has been informed that it was taken; and
    - (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
    - (c) has given his permission.
  - (5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission, may render him liable to prosecution.
  - (6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.
  - (7) In this section “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of a police force.”
- (5) In section 33 of that Act (protection of hospital patients), for subsection (2) there shall be substituted—
- “(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 31A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case—
- (a) has been notified of the proposal to take the specimen or to make the requirement; and
  - (b) has not objected on the ground specified in subsection (2).
- (2) The ground on which the medical practitioner may object is—
- (a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required

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- by section 31(9) of this Act would be prejudicial to the proper care and treatment of the patient; and
- (b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 31A(5) of this Act would be so prejudicial.”
- (6) In subsection (1)(a) of section 34 of that Act (evidence of blood alcohol level) after “provided by” there shall be inserted “ or taken from ”.
- (7) In subsection (2)(a) of that section (rebutting the assumption in subsection (1)(b)), after “provided the specimen” there shall be inserted “ or had it taken from him ”.
- (8) After subsection (3) of that section there shall be substituted—
- “(3A) Where a specimen of blood was taken from the accused under section 31A, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution in the proceedings unless—
- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
- (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.”
- (9) In section 35(3) of that Act (documentary evidence as to consent) after the words “practitioner”, in both places where it occurs, there shall be inserted “ or a registered health care professional ”.
- (10) After subsection (2) of section 38 of that Act (interpretation of Chapter 1 of Part 2 of that Act) there shall be inserted—
- “(2A) In this Chapter “registered health care professional” means a person (other than a medical practitioner) who is—
- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.
- (2B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.
- (2C) An order under subsection (2A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (11) For subsection (5) of that section there shall be substituted—
- “(5) For the purposes of this Chapter, a person provides a specimen of blood if and only if—
- (a) he consents to the taking of such a specimen from him; and
- (b) the specimen is taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.”

*Status: Point in time view as at 01/04/2003.*

*Changes to legislation: Police Reform Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

- I4** S. 58 wholly in force at 1.4.2003; s. 58 not in force at Royal Assent, see s. 108(2); s. 58(3)(4)-(8)(10) in force at 1.10.2002 by S.I. 2002/2306, arts. {2(d)(v)}, {4(d)}; s. 58 in force in so far as not already in force at 1.4.2003 by S.I. 2003/808, art. 2(e)

### *Seizure of motor vehicles*

#### **59 Vehicles used in manner causing alarm, distress or annoyance**

- (1) Where a constable in uniform has reasonable grounds for believing that a motor vehicle is being used on any occasion in a manner which—
- contravenes section 3 or 34 of the Road Traffic Act 1988 (c. 52) (careless and inconsiderate driving and prohibition of off-road driving), and
  - is causing, or is likely to cause, alarm, distress or annoyance to members of the public,
- he shall have the powers set out in subsection (3).
- (2) A constable in uniform shall also have the powers set out in subsection (3) where he has reasonable grounds for believing that a motor vehicle has been used on any occasion in a manner falling within subsection (1).
- (3) Those powers are—
- power, if the motor vehicle is moving, to order the person driving it to stop the vehicle;
  - power to seize and remove the motor vehicle;
  - power, for the purposes of exercising a power falling within paragraph (a) or (b), to enter any premises on which he has reasonable grounds for believing the motor vehicle to be;
  - power to use reasonable force, if necessary, in the exercise of any power conferred by any of paragraphs to (a) to (c).
- (4) A constable shall not seize a motor vehicle in the exercise of the powers conferred on him by this section unless—
- he has warned the person appearing to him to be the person whose use falls within subsection (1) that he will seize it, if that use continues or is repeated; and
  - it appears to him that the use has continued or been repeated after the warning.
- (5) Subsection (4) does not require a warning to be given by a constable on any occasion on which he would otherwise have the power to seize a motor vehicle under this section if—
- the circumstances make it impracticable for him to give the warning;
  - the constable has already on that occasion given a warning under that subsection in respect of any use of that motor vehicle or of another motor vehicle by that person or any other person;
  - the constable has reasonable grounds for believing that such a warning has been given on that occasion otherwise than by him; or
  - the constable has reasonable grounds for believing that the person whose use of that motor vehicle on that occasion would justify the seizure is a person

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to whom a warning under that subsection has been given (whether or not by that constable or in respect the same vehicle or the same or a similar use) on a previous occasion in the previous twelve months.

- (6) A person who fails to comply with an order under subsection (3)(a) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (7) Subsection (3)(c) does not authorise entry into a private dwelling house.
- (8) The powers conferred on a constable by this section shall be exercisable only at a time when regulations under section 60 are in force.
- (9) In this section—
  - “driving” has the same meaning as in the Road Traffic Act 1988 (c. 52);
  - “motor vehicle” means any mechanically propelled vehicle, whether or not it is intended or adapted for use on roads; and
  - “private dwelling house” does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

## **60 Retention etc. of vehicles seized under section 59**

- (1) The Secretary of State may by regulations make provision as to—
  - (a) the removal and retention of motor vehicles seized under section 59; and
  - (b) the release or disposal of such motor vehicles.
- (2) Regulations under subsection (1) may, in particular, make provision—
  - (a) for the giving of notice of the seizure of a motor vehicle under section 59 to a person who is the owner of that vehicle or who, in accordance with the regulations, appears to be its owner;
  - (b) for the procedure by which a person who claims to be the owner of a motor vehicle seized under section 59 may seek to have it released;
  - (c) for requiring the payment of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release;
  - (d) as to the circumstances in which a motor vehicle seized under section 59 may be disposed of;
  - (e) as to the destination—
    - (i) of any fees or charges payable in accordance with the regulations; and
    - (ii) of the proceeds (if any) arising from the disposal of a motor vehicle seized under section 59;
  - (f) for the delivery to a local authority, in circumstances prescribed by or determined in accordance with the regulations, of any motor vehicle seized under section 59.
- (3) Regulations under subsection (1) must provide that a person who would otherwise be liable to pay any fee or charge under the regulations shall not be liable to pay it if—
  - (a) the use by reference to which the motor vehicle in question was seized was not a use by him; and
  - (b) he did not know of the use of the vehicle in the manner which led to its seizure, had not consented to its use in that manner and could not, by the taking of reasonable steps, have prevented its use in that manner.

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(4) In this section—

“local authority”—

- (a) in relation to England, means the council of a county, metropolitan district or London borough, the Common Council of the City of London or Transport for London; and
- (b) in relation to Wales, means the council of a county or county borough; “motor vehicle” has the same meaning as in section 59.

#### *Anti-social behaviour*

### **61 Anti-social behaviour orders**

(1) Section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders) shall be amended as follows.

(2) For paragraph (b) of subsection (1) (authority to be satisfied that order is necessary to protect persons), there shall be substituted—

“(b) that such an order is necessary to protect relevant persons from further anti-social acts by him.”

(3) The words after that paragraph (which specify the authorities who, as relevant authorities, are entitled to apply for anti-social behaviour orders) shall be omitted.

(4) After subsection (1) there shall be inserted—

“(1A) In this section and sections 1B and 1E “relevant authority” means—

- (a) the council for a local government area;
- (b) the chief officer of police of any police force maintained for a police area;
- (c) the chief constable of the British Transport Police Force; or
- (d) any person registered under section 1 of the Housing Act 1996 (c. 52) as a social landlord who provides or manages any houses or hostel in a local government area.

(1B) In this section “relevant persons” means—

- (a) in relation to a relevant authority falling within paragraph (a) of subsection (1A), persons within the local government area of that council;
- (b) in relation to a relevant authority falling within paragraph (b) of that subsection, persons within the police area;
- (c) in relation to a relevant authority falling within paragraph (c) of that subsection—
  - (i) persons who are on or likely to be on policed premises in a local government area; or
  - (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises;
- (d) in relation to a relevant authority falling within paragraph (d) of that subsection—
  - (i) persons who are residing in or who are otherwise on or likely to be on premises provided or managed by that authority; or

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- (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises.”
- (5) Subsection (2)(which is superseded by the provision made by section 66 of this Act) shall cease to have effect.
- (6) In subsection (3) (which identifies the court to which an application should be made), for the words from “the place” to the end there shall be substituted “ the local government area or police area concerned ”.
- (7) For subsection (6) (nature of prohibitions which may be imposed by order) there shall be substituted—
- “(6) The prohibitions that may be imposed by an anti-social behaviour order are those necessary for the purpose of protecting persons (whether relevant persons or persons elsewhere in England and Wales) from further anti-social acts by the defendant.”
- (8) In subsection (10) of that section (penalty for contravention of order), for “shall be” there shall be substituted “ is guilty of an offence and ”.
- (9) In subsection (12) of that section (interpretation)—
- (a) after “In this section—” there shall be inserted—
- ““British Transport Police Force” means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);”;
- and
- (b) after the definition of “local government area” there shall be inserted—
- ““policed premises” has the meaning given by section 53(3) of the British Transport Commission Act 1949.”
- (10) Nothing in this section applies in relation to any application made under section 1 of the Crime and Disorder Act 1998 (c. 37) before the coming into force of this section.

## **62 Power of Secretary of State to add to relevant authorities**

- (1) After section 1 of the Crime and Disorder Act 1998 (c. 37) there shall be inserted—

### **“1A Power of Secretary of State to add to relevant authorities**

The Secretary of State may by order provide that the chief officer of a body of constables maintained otherwise than by a police authority is, in such cases and circumstances as may be prescribed by the order, to be a relevant authority for the purposes of section 1 above.”

- (2) In subsection (2) of section 114 of that Act (negative resolution procedure for orders) after “section” there shall be inserted “ 1A, ”.

## **63 Orders in county court proceedings**

After section 1A of the Crime and Disorder Act 1998 (which is inserted by section 62), there shall be inserted—



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### **“1B Orders in county court proceedings**

- (1) This section applies to any proceedings in a county court (“the principal proceedings”).
- (2) If a relevant authority—
  - (a) is a party to the principal proceedings, and
  - (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,it may make an application in those proceedings for an order under subsection (4).
- (3) If a relevant authority—
  - (a) is not a party to the principal proceedings, and
  - (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,it may make an application to be joined to those proceedings to enable it to apply for an order under subsection (4) and, if it is so joined, may apply for such an order.
- (4) If, on an application for an order under this subsection, it is proved that the conditions mentioned in section 1(1) are fulfilled as respects that other party, the court may make an order which prohibits him from doing anything described in the order.
- (5) Subject to subsection (6), the party to the principal proceedings against whom an order under this section has been made and the relevant authority on whose application that order was made may apply to the county court which made an order under this section for it to be varied or discharged by a further order.
- (6) Except with the consent of the relevant authority and the person subject to the order, no order under this section shall be discharged before the end of the period of two years beginning with the date of service of the order.
- (7) Subsections (5) to (7) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders made under this section as they apply for the purposes of the making and effect of anti-social behaviour orders.”

## **64 Orders on conviction in criminal proceedings**

After section 1B of the Crime and Disorder Act 1998 (c. 37) (which is inserted by section 63), there shall be inserted—

### **“1C Orders on conviction in criminal proceedings**

- (1) This section applies where a person (the “offender”) is convicted of a relevant offence.
- (2) If the court considers—

*Status: Point in time view as at 01/04/2003.*

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- (a) that the offender has acted, at any time since the commencement date, in an anti-social manner, that is to say in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself, and
  - (b) that an order under this section is necessary to protect persons in any place in England and Wales from further anti-social acts by him,
- it may make an order which prohibits the offender from doing anything described in the order.
- (3) The court may make an order under this section whether or not an application has been made for such an order.
  - (4) An order under this section shall not be made except—
    - (a) in addition to a sentence imposed in respect of the relevant offence; or
    - (b) in addition to an order discharging him conditionally.
  - (5) An order under this section takes effect on the day on which it is made, but the court may provide in any such order that such requirements of the order as it may specify shall, during any period when the offender is detained in legal custody, be suspended until his release from that custody.
  - (6) An offender subject to an order under this section may apply to the court which made it for it to be varied or discharged.
  - (7) In the case of an order under this section made by a magistrates' court, the reference in subsection (6) to the court by which the order was made includes a reference to any magistrates' court acting for the same petty sessions area as that court.
  - (8) No application may be made under subsection (6) for the discharge of an order before the end of the period of two years beginning with the day on which the order takes effect.
  - (9) Subsections (7), (10) and (11) of section 1 apply for the purposes of the making and effect of orders made by virtue of this section as they apply for the purposes of the making and effect of anti-social behaviour orders.
  - (10) In this section—
    - “the commencement date” has the same meaning as in section 1 above;
    - “the court” in relation to an offender means—
      - (a) the court by or before which he is convicted of the relevant offence; or
      - (b) if he is committed to the Crown Court to be dealt with for that offence, the Crown Court; and
    - “relevant offence” means an offence committed after the coming into force of section 64 of the Police Reform Act 2002 (c. 30).”

## 65 Interim orders

- (1) After section 1C of the Crime and Disorder Act 1998 (c. 37)(which is inserted by section 64), there shall be inserted—

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### “1D Interim orders

- (1) The applications to which this section applies are—
    - (a) an application for an anti-social behaviour order; and
    - (b) an application for an order under section 1B.
  - (2) If, before determining an application to which this section applies, the court considers that it is just to make an order under this section pending the determination of that application (“the main application”), it may make such an order.
  - (3) An order under this section is an order which prohibits the defendant from doing anything described in the order.
  - (4) An order under this section—
    - (a) shall be for a fixed period;
    - (b) may be varied, renewed or discharged;
    - (c) shall, if it has not previously ceased to have effect, cease to have effect on the determination of the main application.
  - (5) Subsections (6), (8) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders under this section as they apply for the purposes of the making and effect of anti-social behaviour orders.”
- (2) In section 4(1) of that Act (appeals), after “an anti-social behaviour order” there shall be inserted “, an order under section 1D above, ”.

#### Commencement Information

**I5** S. 65 wholly in force at 1.4.2003; s. 65 not in force at Royal Assent, see s. 108(2); s. 65 in force for certain purposes at 2.12.2002 by S.I. 2002/2750, art. 2(a)(vii); s. 65 in force in so far as not already in force at 1.4.2003 by S.I. 2003/808, art. 2(f)

## 66 Consultation requirements

After section 1D of the Crime and Disorder Act 1998 (c. 37)(which is inserted by section 65), there shall be inserted—

### “1E Consultation requirements

- (1) This section applies to—
  - (a) applications for an anti-social behaviour order; and
  - (b) applications for an order under section 1B.
- (2) Before making an application to which this section applies, the council for a local government area shall consult the chief officer of police of the police force maintained for the police area within which that local government area lies.
- (3) Before making an application to which this section applies, a chief officer of police shall consult the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside.

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- (4) Before making an application to which this section applies, a relevant authority other than a council for a local government area or a chief officer of police shall consult—
- (a) the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside; and
  - (b) the chief officer of police of the police force maintained for the police area within which that local government area lies.”

#### **Commencement Information**

- I6** S. 66 wholly in force at 1.4.2003; s. 66 not in force at Royal Assent, see s. 108(2); s. 66 in force for certain purposes at 2.12.2002 by S.I. 2002/2750, art. 2(a)(vii); s. 66 in force in so far as not already in force at 1.4.2003 by S.I. 2003/808, art. 2(f)

### *Sex offenders*

#### **67 Sex offenders: England and Wales**

- (1) Section 2 of the Crime and Disorder Act 1998 (c. 37) (sex offender orders) shall be amended as follows.
- (2) In subsection (1) (application for a sex offender order)—
- (a) for “in his police area” there shall be substituted “ who he believes is in, or is intending to come to, his police area ”;
  - (b) for “the public” there shall be substituted “ the public in the United Kingdom, or any particular members of that public, ”.
- (3) In subsection (2) (which identifies the court to which an application must be made)—
- (a) for “the magistrates’ court” there shall be substituted “—
    - (a) any magistrates’ court”;
  - (b) at the end there shall be inserted “; or
    - (b) any magistrates’ court whose commission area includes any part of the applicant’s police area.”
- (4) In subsection (4) (the prohibitions which may be imposed), for “the public” there shall be substituted “ the public in the United Kingdom, or any particular members of that public, ”.
- (5) In subsection (6) (variation or discharge of the order)—
- (a) after “the applicant” there shall be inserted “ , any other relevant chief officer of police ”;
  - (b) for “the court which made a sex offender order for it” there shall be substituted “ the appropriate court for the sex offender order ”.
- (6) After that subsection there shall be inserted—
- “(6A) In subsection (6) above—
- “the appropriate court” means—
- (a) the court which made the sex offender order; or

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- (b) any magistrates' court whose commission area includes any part of the police area of the applicant or of any other relevant chief officer of police;  
“relevant chief officer of police” means a chief officer of police who believes that the defendant is in, or is intending to come to, his police area.”
- (7) In subsection (7) (discharge of orders), after “parties” there shall be inserted “ and subject to subsection (7A) below ”.
- (8) After that subsection there shall be inserted—  
“(7A) Where any magistrates' court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”
- (9) In subsection (8) (offence for breach of order), for “shall be” there shall be substituted “ is guilty of an offence and ”.
- (10) Subsections (4) to (6) apply in relation to applications and orders under section 2 of the Crime and Disorder Act 1998 (c. 37), whether made before or after the coming into force of this section.

## **68 Interim orders for sex offenders: England and Wales**

- (1) After section 2 of the Crime and Disorder Act 1998 there shall be inserted—

### **“2A Interim orders: sex offenders**

- (1) This section applies where an application for a sex offender order (“the main application”) to a magistrates' court has not been determined.
- (2) The applicant may apply by complaint to the court for an interim order, pending the determination of the main application.
- (3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.
- (4) An interim order—  
(a) shall have effect for the period specified in the order;  
(b) shall (if still in force) cease to have effect on the determination of the main application.
- (5) While an interim order is in force, Part 1 of the Sex Offenders Act 1997 (c. 51) shall have effect as if—  
(a) the defendant were subject to the notification requirements of that Part; and  
(b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.
- (6) The applicant or the defendant may apply by complaint to the court which made the interim order for it to be varied or discharged by a further order.
- (7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.

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- (8) A person guilty of an offence under subsection (7) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (9) Where a person is convicted of an offence under subsection (7) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) in respect of the offence.”
- (2) In section 4(1) of that Act (appeals), for “or sex offender order” there shall be substituted “, a sex offender order or an order under section 2A above”.

## 69 Sex offender orders made in Scotland or Northern Ireland

After section 2A of the Crime and Disorder Act 1998 (c. 37) (which is inserted by section 68 there shall be inserted—

### “2B Sex offender orders made in Scotland or Northern Ireland

- (1) If without reasonable excuse a person does anything in England and Wales which he is prohibited from doing there by—
- (a) an order under section 20(4) below; or
  - (b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),
- he is guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (3) Where a person is convicted of an offence under subsection (1) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 in respect of the offence.”

## 70 Sex offenders: Scotland

- (1) The Crime and Disorder Act 1998 shall be amended as follows.
- (2) In section 20(1) (application for a sex offender order in Scotland) for “in the area of his police force” there shall be substituted “ who he believes is in, or is intending to come to, the area of his police force”.
- (3) In section 20(2) (conditions to be fulfilled), for “the public” there shall be substituted “ the public in the United Kingdom, or any particular members of that public”.
- (4) In section 20(3) (court to which application must be made)—

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- (a) after “application to” there shall be inserted “—  
(a)”;
  - (b) at the end there shall be inserted “; or  
(b) the sheriff whose sheriffdom includes any part of the area of the applicant’s police force.”.
- (5) In section 20(5) (prohibitions which may be imposed), for “the public” there shall be substituted “ the public in the United Kingdom, or any particular members of that public, ”.
- (6) In section 21(7) (time limit, variation and revocation of order)—
- (a) in paragraph (b), after “revoked” there shall be inserted “ (in the case of a sex offender order, by the appropriate court for that order) ”;
  - (b) in paragraph (b)(i), after “the order” there shall be inserted “ or, in the case of a sex offender order, any other relevant chief constable ”.
- (7) After that subsection there shall be inserted—
- “(7A) In subsection (7) above—
- “the appropriate court” means—
- (a) the sheriff who made the sex offender order; or
  - (b) the sheriff whose sheriffdom includes any part of the area of the applicant’s police force or of the police force of any other relevant chief constable;
- “relevant chief constable” means a chief constable who believes that the accused is in, or is intending to come to, the area of his police force.”
- (8) After subsection (7A) (inserted by subsection (7)) there shall be inserted—
- “(7B) Where a sheriff makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”
- (9) Subsections (5) to (7) apply in relation to applications and orders under section 20 of the Crime and Disorder Act 1998 (c. 37), whether made before or after the coming into force of this section.

#### Commencement Information

I7 S. 70 in force for S. at 1.10.2002 by S.S.I. 2002/420, art. 2

## 71 Sex offender orders made in England and Wales or Northern Ireland

After section 21 of the Crime and Disorder Act 1998 there shall be inserted—

### “21A Sex offender orders made in England and Wales or Northern Ireland

- (1) If without reasonable excuse a person does anything in Scotland which he is prohibited from doing there by—
  - (a) an order under section 2(3) or 2A above; or

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(b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),  
 he is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) above shall be liable—

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

#### Commencement Information

**I8** S. 71 in force for S. at 1.10.2002 by S.S.I. 2002/420, art. 2

## 72 Sex offenders: Northern Ireland

- (1) Article 6 of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) (sex offender orders) shall be amended as follows.
- (2) In paragraph (1) (application for a sex offender order)—
  - (a) for “in Northern Ireland” there shall be substituted “ who he believes is in, or is intending to come to, Northern Ireland ”;
  - (b) for “the public” there shall be substituted “ the public in the United Kingdom, or any particular members of that public, ”.
- (3) In paragraph (2) (which identifies the court to which an application must be made), for the words following “1981 to” there shall be substituted “ any court of summary jurisdiction ”.
- (4) In paragraph (4) (the prohibitions which may be imposed), for “the public” there shall be substituted “ the public in the United Kingdom, or any particular members of that public, ”.
- (5) In paragraph (7) (discharge of orders), after “parties” there shall be inserted “ and subject to paragraph (7A) ”.
- (6) After that paragraph there shall be inserted—
 

“(7A) Where a court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”
- (7) Subsection (4) applies in relation to applications and orders under Article 6 of the Criminal Justice (Northern Ireland) Order 1998, whether made before or after the coming into force of this section.

## 73 Interim orders for sex offenders: Northern Ireland

- (1) After Article 6 of the Criminal Justice (Northern Ireland) Order 1998 there shall be inserted—



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*Status: Point in time view as at 01/04/2003.*

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#### **“6A Interim orders: sex offenders**

- (1) This Article applies where an application for a sex offender order (“the main application”) to a court of summary jurisdiction has not been determined.
  - (2) The applicant may apply by way of complaint under Part VIII of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/ 1675 (N.I. 26)) to the court for an interim order, pending the determination of the main application.
  - (3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.
  - (4) An interim order—
    - (a) shall have effect for the period specified in the order;
    - (b) shall (if still in force) cease to have effect on the determination of the main application.
  - (5) While an interim order is in force, Part 1 of the Sex Offenders Act 1997 (c. 51) shall have effect as if—
    - (a) the defendant were subject to the notification requirements of that Part; and
    - (b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.
  - (6) The applicant or the defendant may apply for the variation or discharge of the interim order by a further order.
  - (7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.
  - (8) A person guilty of an offence under paragraph (7) shall be liable—
    - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
    - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
  - (9) Where a person is convicted of an offence under paragraph (7), it shall not be open to the court by or before which he is convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/ 3160 (N.I. 24)) in respect of the offence.”
- (2) In Article 7(7) of that Order (sex offender orders: supplemental)—
- (a) after “a sex offender order” there shall be inserted “ or an interim order under Article 6A ”;
  - (b) after “Article 6(6)” there shall be inserted “ or 6A(6) ”.

#### **74 Sex offender orders made in England and Wales or Scotland**

After Article 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) (which is inserted by section 73 above) there shall be inserted—

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#### **“6B Sex offender orders made in England and Wales or Scotland**

- (1) If without reasonable excuse a person does anything in Northern Ireland which he is prohibited from doing there by an order under section 2, 2A or 20 of the Crime and Disorder Act 1998 (c. 37) he is guilty of an offence.
- (2) A person who is guilty of an offence under paragraph (1) shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (3) Where a person is convicted of an offence under paragraph (1), it shall not be open to the court by or before which he is convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/ 3160 (N.I. 24)) in respect of the offence.”

#### *The British Transport Police*

#### **75 Removal of truants to designated places**

- (1) In section 16 of the Crime and Disorder Act 1998 (c. 37) (removal of truants to designated place), after subsection (3) there shall be inserted—
 

“(3A) The power of a police officer of or above the rank of superintendent under subsection (2) to specify any area falling within a police area shall be exercisable by such an officer who is a member of the British Transport Police as if the reference in that subsection to an area in the police area were a reference to—

  - (a) any area in or in the vicinity of any policed premises; or
  - (b) the whole or any part of any such premises;

and references in subsection (3) to the specified area shall have effect accordingly.”
- (2) In subsection (5) of that section (interpretation)—
  - (a) before the definition of “local authority” there shall be inserted—
 

““British Transport Police” means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);”

and
  - (b) after the definition of “local authority” there shall be inserted—
 

““policed premises” has the meaning given by section 53(3) of the British Transport Commission Act 1949;”.

#### **76 Amendments to Part 3 of the Road Traffic Offenders Act 1988**

- (1) Part 3 of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalties) shall be amended as follows.

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- (2) In section 54(9) (meaning of authorised person for the purposes of fixed penalty provisions), at the end there shall be inserted “or a person authorised for those purposes by or on behalf of the chief constable of the British Transport Police.”
- (3) In section 75(1) (conditional offers in England and Wales), at the end there shall be inserted “or, if the constable is a member of the British Transport Police, by or on behalf of the chief constable of the British Transport Police.”
- (4) In section 76(2) (limitation on proceedings), in paragraph (a), for “the chief officer” there shall be substituted “the person by or on whose behalf the conditional offer was sent”.
- (5) In section 87 (guidance from the Secretary of State), after “areas” there shall be inserted “and to the chief constable of the British Transport Police”.
- (6) In section 89 (interpretation of Part 3), after the definition of “authorised person” there shall be inserted—

““British Transport Police” means the force of constables appointed under the British Transport Commission Act 1949 (c. xxix);”.

#### *Property in possession of NCS*

### **77 Application of the Police (Property) Act 1897 to NCS**

- (1) After section 2 of the Police (Property) Act 1897 (c. 30) there shall be inserted—

#### **“2A Application to NCS**

- (1) This Act applies to property which has come into the possession of the National Crime Squad as it applies to property that has come into the possession of the police.
- (2) In relation to property that has come into the possession of the National Crime Squad—
  - (a) the reference in section 1(1) to an officer of police is a reference to a member of that Squad; and
  - (b) references in section 2 to the property remaining in the possession of the police are references to its remaining in the possession of that Squad.
- (3) The power to make regulations under section 2 has effect in relation to property that has come into the possession of the National Crime Squad as if—
  - (a) the relevant authority for the purposes of subsection (2A) of that section were the Service Authority for that Squad; and
  - (b) the reference in subsection (2A)(c) of that section to police purposes were a reference to the purposes of that Squad.”
- (2) In section (2) of that Act (regulations), for subsection (2B) there shall be substituted—

“(2B) The relevant authority for the purposes of subsection (2A) is the police authority.”

**Status:**

Point in time view as at 01/04/2003.

**Changes to legislation:**

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